LOCAL GOVERNMENT CODE
TITLE 1. GENERAL PROVISIONS
CHAPTER 1. GENERAL PROVISIONS

Sec. 1.001. PURPOSE OF CODE. (a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in the law codified as Chapter 323 of the Government Code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the law encompassed by this code more accessible and understandable, by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 1.002. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311 of the Government Code) applies to the construction of each provision in this code except as otherwise expressly provided by this code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 1.003. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 1.004. REFERENCE IN LAW TO STATUTE REVISED BY CODE. A reference in a law to a statute or a part of a statute revised by this code is considered to be a reference to the part of this code that revises that statute or part of the statute.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 1.005. DEFINITIONS. In this code:

(1) "General-law municipality" means a municipality designated by Chapter 5 as a Type A general-law municipality, Type B general-law municipality, or Type C general-law municipality.

(2) "Home-rule municipality" means a municipality designated by Chapter 5 as a home-rule municipality.

(3) "Municipality" means a general-law municipality, home-rule municipality, or special-law municipality.

(4) "Special-law municipality" means a municipality designated by Chapter 5 as a special-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT
SUBTITLE A. TYPES OF MUNICIPALITIES
CHAPTER 5. TYPES OF MUNICIPALITIES IN GENERAL
SUBCHAPTER A. TYPES OF MUNICIPALITIES

Sec. 5.001. TYPE A GENERAL-LAW MUNICIPALITY. A municipality is a Type A general-law municipality if it:

(1) has incorporated as a Type A general-law municipality under Subchapter A of Chapter 6 and has not acted to change to another type of municipality;

(2) has changed to a Type A general-law municipality under Subchapter B of Chapter 6 and has not acted to change to another type of municipality; or

(3) operated, immediately preceding September 1, 1987, under Chapters 1-10, Title 28, Revised Statutes, and has not acted to change to another type of municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 5.002. TYPE B GENERAL-LAW MUNICIPALITY. A municipality is a Type B general-law municipality if it:

(1) has incorporated as a Type B general-law municipality under Chapter 7 and has not acted to change to another type of municipality; or

(2) operated, immediately preceding September 1, 1987, under Chapter 11, Title 28, Revised Statutes, and has not acted to change to another type of municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 5.003. TYPE C GENERAL-LAW MUNICIPALITY. A municipality is a Type C general-law municipality if it:

(1) has incorporated as a Type C general-law municipality under Subchapter A of Chapter 8 and has not acted to change to another type of municipality;

(2) has changed to a Type C general-law municipality under Subchapter B of Chapter 8 and has not acted to change to another type of municipality; or

(3) operated, immediately preceding September 1, 1987, under Chapter 12, Title 28, Revised Statutes, and has not acted to change to another type of municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 5.004. HOME-RULE MUNICIPALITY. A municipality is a home-rule municipality if it operates under a municipal charter that has been adopted or amended as authorized by Article XI, Section 5, of the Texas Constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 5.005. SPECIAL-LAW MUNICIPALITY. (a) A municipality is a special-law municipality if it operates under a municipal charter granted by a local law enacted by the Congress of the Republic of

Texas or by the legislature.

(b) A special-law municipality that has amended its municipal charter as authorized by Article XI, Section 5, of the Texas Constitution is also a home-rule municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS AFFECTING TYPES OF MUNICIPALITIES

Sec. 5.901. TERRITORIAL REQUIREMENTS FOR INCORPORATION AS GENERAL-LAW MUNICIPALITY. A community may not incorporate as a general-law municipality unless it meets the following territorial requirements:

(1) a community with fewer than 2,000 inhabitants must have not more than two square miles of surface area;

(2) a community with 2,001 to 4,999 inhabitants must have not more than four square miles of surface area; and

(3) a community with 5,001 to 9,999 inhabitants must have not more than nine square miles of surface area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 5.902. CHANGE IN DESIGNATION FROM TOWN TO CITY. (a) The governing body of a Type A general-law municipality that was designated as a "town" may change by ordinance its designation to a "city."

(b) A change in designation does not affect the municipality's corporate existence or powers.

(c) Bonds that are voted by a municipality and are unissued before the municipality changes its designation may be issued in the new name of the municipality as designated in the ordinance changing the designation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 5.903. CHARTER AMENDMENTS BY SPECIAL-LAW MUNICIPALITY INCORPORATED BEFORE JUNE 30, 1881. (a) A special-law municipality that was incorporated as a town or village before June 30, 1881, by

the Congress of the Republic of Texas or by the legislature may amend its charter in any regard that does not conflict with the law of this state if the amendment is approved by a resolution of the governing body of the town or village and by at least a two-thirds vote at an election held to ratify the amendment.

(b) An amendment to a charter under Subsection (a) is not effective until:

(1) the governing body of the town or village adopts a resolution stating the amendment; and

(2) a certified copy of the amendment is approved by the attorney general and recorded with the secretary of state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 5.904. MUNICIPALITY NOT GOVERNED BY CORPORATE LAW. (a) A municipality may not be considered a corporation under a state statute governing corporations unless the statute extends its application to a municipality by express use of the term "municipal corporation," "municipality," "city," "town," or "village."

(b) It is the intent of the legislature that the limitation provided by this section apply regardless of whether the municipality is acting in a governmental or proprietary function.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 2(a), eff. Aug. 28, 1989.

CHAPTER 6. TYPE A GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. INCORPORATION AS TYPE A GENERAL-LAW MUNICIPALITY

Sec. 6.001. AUTHORITY TO INCORPORATE AS TYPE A GENERAL-LAW MUNICIPALITY. A community may incorporate under this subchapter as a Type A general-law municipality if it:

(1) constitutes an unincorporated city or town;

(2) contains 600 or more inhabitants; and

(3) meets the territorial requirements prescribed by Section 5.901.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 6.002. INCORPORATION PROCEDURE. The procedure for

incorporating as a Type A general-law municipality is the same as that prescribed for incorporating as a Type B general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.01, eff. Sept. 1, 1999.

Sec. 6.003. EFFECTIVE DATE OF INCORPORATION. The incorporation of the community as a municipality is effective on the date the county judge makes the entry, under Section 7.007, in the records of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. CHANGE FROM ANOTHER MUNICIPAL TYPE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 6.011. AUTHORITY TO CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY. (a) A municipality incorporated in any manner other than as a Type A general-law municipality may change to a Type A general-law municipality if the municipality:

(1) has 600 or more inhabitants;

(2) contains one or more manufacturing establishments within its corporate limits; or

(3) is incorporated under any law of the Republic of Texas.

(b) A municipality that makes the change shall operate under the law applying to a Type A general-law municipality instead of operating under any charter or law that previously governed the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 6.012. PROCEDURE FOR CHANGE. If a municipality wishes to change to a Type A general-law municipality:

(1) at least two-thirds of the governing body of the municipality at a regular meeting must vote to make the change and the vote must be recorded in the journal of the governing body's proceedings;

(2) a copy of the record of the proceedings must be signed

by the mayor;

(3) a copy of the record of the proceedings must be attested by the municipality's clerk or secretary under the corporate seal; and

(4) a copy of the record of the proceedings must be filed and recorded in the office of the county clerk of the county in which the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 6.013. REPEAL OF LOCAL LAW AFTER CHANGE. Any local law that incorporated a municipality that changes to a Type A general-law municipality under this subchapter is repealed on the date on which the copy of the record of the proceedings is filed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 6.014. CHANGE DOES NOT AFFECT PRIOR NAME OR STATUS AS BODY CORPORATE. A municipality that changes to a Type A general-law municipality retains the prior name by which it was known and continues to be a body corporate with perpetual succession.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 7. TYPE B GENERAL-LAW MUNICIPALITY

Sec. 7.001. AUTHORITY TO INCORPORATE AS TYPE B GENERAL-LAW MUNICIPALITY. A community may incorporate under this chapter as a Type B general-law municipality if it:

(1) constitutes an unincorporated town or village;

(2) contains 201 to 9,999 inhabitants; and

(3) meets the territorial requirements prescribed by Section 5.901.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 7.002. APPLICATION TO INCORPORATE. (a) The residents of a community may initiate an attempt to incorporate the community

under this chapter by filing with the county judge of the county in which the community is located an application to incorporate signed by at least 50 qualified voters who are residents of the community.

(b) The application must state the proposed boundaries and name of the municipality, and it must be accompanied by a plat of the proposed municipality that contains only the territory to be used strictly for municipal purposes.

(c) If a community is located in two counties, the application to incorporate may be filed with the county judge of either county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 65, Sec. 1, eff. Sept. 1, 1989.

Sec. 7.003. ELECTION ORDER. If satisfactory proof is made that a community that has filed an application to incorporate under this chapter contains the requisite number of inhabitants, the county judge shall order an incorporation election to be held on a specified date and at a designated place in the community.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 7.004. ELECTION OFFICERS. The county judge shall appoint an officer to preside at an incorporation election under this chapter. The presiding officer shall appoint two election judges and two election clerks to assist in conducting the election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 7.005. NOTICE OF ELECTION. An incorporation election under this chapter may not be held until notice of the election has been posted at three public places in the community for the 10 days preceding the date of the election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 7.006. QUALIFIED VOTERS. Each qualified voter who resides within the boundaries of the proposed municipality may vote at the

election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 7.007. ORDER OF INCORPORATION. (a) Within 20 days after the date the county judge receives the returns of an incorporation election, the judge shall, if a majority of the votes cast are for incorporation, make an entry in the records of the commissioners court that the community is incorporated. The judge shall include the boundaries of the municipality in the entry. The incorporation of the community as a municipality is effective on the date the entry is made.

(b) A certified copy of the entry and a plat of the municipality shall be recorded in the deed records of the county in which the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 7.008. INTERVAL BETWEEN ELECTIONS. A county judge may not order an incorporation election under this chapter to be held earlier than three years after the date of the most recent incorporation election under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 792, Sec. 1, eff. Sept. 1, 1989.

CHAPTER 8. TYPE C GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. INCORPORATION AS TYPE C GENERAL-LAW MUNICIPALITY

Sec. 8.001. AUTHORITY TO INCORPORATE AS TYPE C GENERAL-LAW MUNICIPALITY. (a) A community may incorporate under this subchapter as a Type C general-law municipality if it:

(1) constitutes an unincorporated city, town, or village;

(2) contains 201 to 4,999 inhabitants; and

(3) meets the territorial requirements prescribed by Section 5.901.

(b) A community incorporating as a Type C general-law municipality adopts the commission form of government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 8.002. PETITION TO INCORPORATE. The residents of a community may initiate an attempt to incorporate under this subchapter by filing with the county judge a written petition signed by at least 10 percent of the qualified voters of the community. The petition must request the county judge to order an election to determine whether the community will incorporate as a Type C general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 8.003. ELECTION ORDER. If a county judge receives the petition and if satisfactory proof is made that the community contains the requisite number of inhabitants, the judge shall order an incorporation election to be held on a specified date and at a designated place in the community.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 8.004. ELECTION OFFICERS. The county judge shall appoint two election judges and two election clerks to conduct the incorporation election under this subchapter. The county judge shall designate one of the election judges to be the presiding judge.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 8.005. NOTICE OF ELECTION. Notice of an incorporation election under this subchapter must be published in a newspaper in the community before the 30th day before the date of the election, or if there is no newspaper in the community, the notice must be posted at three public places in the community for the 30 days preceding the date of the election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 8.006. ORDER OF INCORPORATION. If a majority of the votes cast in an election under this subchapter are for incorporation, the county judge shall enter an order in the minutes of the commissioners court that the community is incorporated. The incorporation is effective on the date the order is entered.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. CHANGE FROM ANOTHER MUNICIPAL TYPE TO TYPE C GENERAL-LAW MUNICIPALITY

Sec. 8.021. AUTHORITY TO CHANGE TO TYPE C GENERAL-LAW MUNICIPALITY. (a) A Type A general-law municipality containing 4,999 or fewer inhabitants or a Type B general-law municipality containing 999 or fewer inhabitants may change to a Type C general-law municipality.

(b) A municipality changing to a Type C general-law municipality adopts the commission form of government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 244 (H.B. 303), Sec. 1, eff. May 29, 2025.

Sec. 8.022. PETITION TO CHANGE. The residents of a municipality may initiate an attempt to make the change under this subchapter by filing with the mayor of the municipality a written petition signed by at least 10 percent of the qualified voters of the municipality. The petition must request the mayor to order an election to determine whether the municipality will change to a Type C general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 8.023. ELECTION ORDER. If the mayor receives the petition, the mayor shall order an election on the question of the change to be held in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 8.024. ELECTION OFFICERS. The mayor shall appoint two election judges and two election clerks to conduct the election under this subchapter. The mayor shall designate one of the election judges to be the presiding judge.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 8.025. NOTICE OF ELECTION. In addition to the notice required by Chapter 4, Election Code, notice of an election under this subchapter must be published in a newspaper in the municipality before the 30th day before the date of the election, or if there is no newspaper in the municipality, the notice must be posted at three public places in the municipality for the 30 days preceding the date of the election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 8.026. ORDER OF CHANGE. If a majority of the votes cast in an election under this subchapter are for the change, the mayor shall enter an order in the minutes of the municipality's governing body that the municipality is changed. The change is effective from the time the order is entered.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 9. HOME-RULE MUNICIPALITY

Sec. 9.001. ADOPTION OR AMENDMENT OF HOME-RULE CHARTER. This chapter applies to the adoption or amendment of a municipal charter by a municipality authorized to do so by Article XI, Section 5, of the Texas Constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.0015. DEFINITION. In this chapter, "climate charter" means a charter provision or charter amendment establishing a

comprehensive rule or policy statement that purports to address climate change or the municipality's environmental impact, including water and energy use and air pollution.

Added by Acts 2023, 88th Leg., R.S., Ch. 360 (S.B. 1860), Sec. 1, eff. September 1, 2023.

Sec. 9.002. SELECTION OF CHARTER COMMISSION. (a) The governing body of the municipality may, by an ordinance adopted by at least a two-thirds vote of its membership, order an election by the voters of the municipality on the question: "Shall a commission be chosen to frame a new charter?" The governing body shall by ordinance order the election if presented with a petition signed by at least 10 percent of the qualified voters of the municipality.

(b) The election ordinance shall provide for the election to be held on the date of the municipality's next general election scheduled after the 30th day but on or before the 90th day after the date the ordinance is adopted. However, if no general election is scheduled during that period that allows sufficient time to comply with other requirements of law, the election shall be ordered for the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs after the 30th day after the date the ordinance is adopted and published in a newspaper published in the municipality.

(c) The ballot at the election on the question prescribed by Subsection (a) shall also provide for the election from the municipality at large of a charter commission to draft a charter if a majority of the qualified voters voting on the question of choosing a charter commission approve the question. The commission must consist of at least 15 members, but if it has more than 15 members it may not have more than one member for each 3,000 inhabitants of the municipality. The ballot may not contain any party designation.

(d) The provisions of Subsections (a), (b), and (c) regarding the selection of a charter commission do not apply to the first charter election in a municipality if:

(1)(A) the governing body of the municipality selects a charter commission;

(B) a charter commission is selected at a mass meeting;

or

(C) the mayor of the municipality appoints a charter commission; and

(2) the charter commission has proceeded with the formation of a charter for the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.003. VOTE ON CHARTER. (a) Except as provided by Section 9.0045, the charter prepared by the charter commission shall be submitted to the qualified voters of the municipality at an election to be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs on or after the 40th day after the date the charter commission completes its work. The governing body of the municipality shall provide for the submission of the charter at the election to the extent that the provisions for submission are not prescribed by general law.

(b) Before the 30th day before the date of the election, the governing body of the municipality shall order the municipal clerk or the municipal secretary to mail a copy of the proposed charter to each registered voter of the municipality.

(c) The charter commission shall prepare the charter so that to the extent practicable each subject may be voted on separately.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(b), eff. Aug. 28, 1989. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 360 (S.B. 1860), Sec. 2, eff. September 1, 2023.

Sec. 9.004. CHARTER AMENDMENTS. (a) Except as provided by Section 9.0045, the governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. The governing body shall submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of

the municipality or 20,000, whichever number is the smaller.

(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30th day after the date the ordinance is adopted.

(c) Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must:

(1) include a substantial copy of the proposed amendment;

(2) include an estimate of the anticipated fiscal impact to the municipality if the proposed amendment is approved at the election; and

(3) be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

(d) An amendment may not contain more than one subject.

(e) The ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments.

(f) The requirement imposed by Subsection (c)(2) does not waive governmental immunity for any purpose and a person may not seek injunctive relief or any other judicial remedy to enforce the estimate of the anticipated fiscal impact on the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1219, Sec. 5, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 76, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 414 (S.B. 1086), Sec. 1, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 360 (S.B. 1860), Sec. 3, eff. September 1, 2023.

Sec. 9.0045. APPROVAL OF CLIMATE CHARTER OR AMENDMENT TO CHARTER BY LEGISLATURE REQUIRED. A municipality may not hold an election for voter approval of a proposed climate charter unless the legislature adopts a resolution approving the proposed climate

charter.

Added by Acts 2023, 88th Leg., R.S., Ch. 360 (S.B. 1860), Sec. 4, eff. September 1, 2023.

Sec. 9.005. ADOPTION OF CHARTER OR AMENDMENT. (a) A proposed charter for a municipality or a proposed amendment to a municipality's charter is adopted if it is approved by a majority of the qualified voters of the municipality who vote at an election held for that purpose.

(b) A charter or an amendment does not take effect until the governing body of the municipality enters an order in the records of the municipality declaring that the charter or amendment is adopted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.006. CONCURRENT ELECTIONS. This chapter does not prevent the voters at an election to adopt a charter or an amendment to a charter from electing at the same election persons to hold office under the charter or amendment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.007. CERTIFICATION OF CHARTER OR AMENDMENT. (a) As soon as practicable after a municipality adopts a charter or charter amendment, the mayor or chief executive officer of the municipality shall certify to the secretary of state an authenticated copy of the charter or amendment under the municipality's seal showing the approval by the voters of the municipality.

(b) The secretary of state shall file and record the certification in his office in a book kept for that purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.008. REGISTRATION OF CHARTER OR AMENDMENT; EFFECT. (a) The secretary or other officer of a municipality performing functions similar to those of a secretary shall record in the secretary's or

other officer's office a charter or charter amendment adopted by the voters of the municipality. If a charter or amendment is not recorded on microfilm, as may be permitted under another law, it shall be recorded in a book kept for that purpose.

(b) Recorded charters or amendments are public acts. Courts shall take judicial notice of them, and no proof is required of their provisions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBTITLE B. MUNICIPAL FORM OF GOVERNMENT
CHAPTER 21. GENERAL PROVISIONS AFFECTING GOVERNING BODY OF MUNICIPALITY
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 21.001. ELECTION OF ALDERMEN BY PLACE SYSTEM IN GENERAL-LAW MUNICIPALITY. (a) The governing body of a general-law municipality that is not divided into wards and that elects its aldermen at large may provide by ordinance for the election of aldermen under a place system.

(b) The ordinance must be enacted before the 60th day before the date of the first regular municipal election of aldermen under a place system.

(c) As soon as possible after the place system ordinance is enacted, the governing body shall assign place numbers to each alderman's office.

(d) When incumbent aldermen's terms of office expire, any candidate for the office of alderman shall file an application for a specific place on the governing body, such as "Alderman, Place No. 1."

(e) The ballot for an election under the place system must show each office of alderman as a separate office designated by place number.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 21.002. REFERENCES TO MUNICIPAL GOVERNING BODY AND TO MEMBERS OF MUNICIPAL GOVERNING BODY. A reference in this code or another statute:

(1) to a member of the governing body of a municipality

includes each member of that body regardless of the name, including alderman, commissioner, or council member, used by a statute, municipal charter, or municipal ordinance to refer to the member; or

(2) to the governing body of a municipality includes a municipal governing body regardless of the name, including board of aldermen, city commission, or city council, used by a statute, municipal charter, or municipal ordinance to refer to the governing body.

Added by Acts 2001, 77th Leg., ch. 402, Sec. 1(b), eff. Sept. 1, 2001.

Sec. 21.003. MEMBERS OF MUNICIPAL GOVERNING BODIES MAY VOLUNTEER. A member of the governing body of a municipality may serve as a volunteer for an organization that protects the health, safety, or welfare of the municipality regardless of whether the organization is funded or supported in whole or part by the municipality if the governing body adopts a resolution allowing members of the governing body to perform service of that nature.

Added by Acts 2001, 77th Leg., ch. 42, Sec. 2, eff. May 3, 2001. Renumbered from Local Government Code Sec. 21.002 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(104), eff. Sept. 1, 2003.

Sec. 21.005. CHOICE OF UNIFORM ELECTION DATE FOR NEWLY INCORPORATED MUNICIPALITY. Not later than the first anniversary of the date of its incorporation, a newly incorporated municipality shall select a uniform election date under Section 41.001, Election Code, to use for the general election of the members of the municipality's governing body.

Added by Acts 2011, 82nd Leg., R.S., Ch. 519 (H.B. 2144), Sec. 3, eff. September 1, 2011.

Sec. 21.006. ELECTION OF ENTIRE GOVERNING BODY UPON APPORTIONMENT. (a) A municipality that is divided into districts, wards, or other areas from which members of its governing body are elected shall elect all members of the municipality's governing body

following each apportionment on the first uniform election date that allows sufficient time to comply with any requirements of law.

(b) If members of the governing body of a municipality described by Subsection (a) serve staggered terms, the municipality shall adopt an equitable process to determine which members of the governing body serve shorter terms to accommodate an election following apportionment that accounts for the remaining time in each member's term and whether the term of any member elected from a particular district, ward, or area was previously shortened under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 1124 (H.B. 3613), Sec. 1, eff. September 1, 2023.

SUBCHAPTER B. JUDICIAL REMOVAL OF MEMBER OF GOVERNING BODY OF GENERAL-LAW MUNICIPALITY

Sec. 21.021. APPLICABILITY. This subchapter applies only to a general-law municipality.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

Sec. 21.022. DEFINITIONS. In this subchapter:

(1) "District attorney" includes a criminal district attorney.

(2) "Incompetency" means:

(A) gross ignorance of official duties;

(B) gross carelessness in the discharge of official duties; or

(C) inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election.

(3) "Officer" means the mayor or another member of the governing body of a municipality.

(4) "Official misconduct" means intentional unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

Sec. 21.023. REMOVAL FROM OFFICE. The district judge may remove an officer of the municipality from office as provided by this subchapter.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

Sec. 21.024. NO REMOVAL BEFORE ACTION. An officer may not be removed under this subchapter for an act the officer committed before election to office if the act was a matter of public record or otherwise known to the voters.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 2, eff. Sept. 1, 2001.

Sec. 21.025. GENERAL GROUNDS FOR REMOVAL. (a) An officer may be removed from office for:

(1) incompetency;

(2) official misconduct; or

(3) intoxication on or off duty caused by drinking an alcoholic beverage.

(b) Intoxication is not a ground for removal if it appears at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

Sec. 21.026. PETITION FOR REMOVAL. (a) A proceeding for the removal of an officer is begun by filing a written petition for removal in a district court of the county in which the officer resides.

(b) Any resident of the municipality who has lived for at least six months in the municipality and who is not currently under indictment in the county in which the municipality is located may file the petition. At least one of the parties who files the

petition must swear to it at or before the filing.

(c) The petition must be addressed to the district judge of the court in which it is filed. The petition must specify the grounds alleged for the removal of the officer in plain and intelligible language and must cite the time and place of the occurrence of each act alleged as a ground for removal with as much certainty as the nature of the case permits.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

Sec. 21.027. CITATION OF OFFICER. (a) After a petition for removal is filed, the person filing the petition shall apply to the district judge in writing for an order requiring a citation and a certified copy of the petition to be served on the officer.

(b) If the application for the order is made during the term of the court, action may not be taken on the petition until the order is granted and entered in the minutes of the court. If the application is made to the judge during the vacation of the court, the judge shall indicate on the petition the action taken and shall have the action entered in the minutes of the court at the next term.

(c) If the judge refuses to issue the order for citation, the petition shall be dismissed at the cost of the person filing the petition. The person may not take an appeal from the judge's decision or apply for a writ of mandamus. If the judge grants the order for citation, the clerk shall issue the citation with a certified copy of the petition. The judge shall require the person filing the petition to post security for costs in the manner provided for other cases.

(d) The citation shall order the officer to appear and answer the petition on a date, fixed by the judge, after the fifth day after the date the citation is served. The time is computed as it is in other suits. Disposition of this action by the district court shall take precedence over other civil matters on the court's docket.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

Sec. 21.028. BOND. (a) The judge shall require the person filing the petition to execute a bond, with at least two good and sufficient sureties, in an amount fixed by the judge and conditioned

as required by the judge. The bond shall be used to pay damages and costs to the officer if the grounds for removal are found at trial to be insufficient or untrue. The officer must serve written notice on the person who filed the petition and that person's bondsman not later than the 90th day after the date the bond is executed, stating that the officer intends to hold them liable on the bond and stating the grounds for that liability.

(b) If the final judgment establishes the officer's right to the office, the person filing the petition shall pay the officer an amount determined by the judge as appropriate to compensate the officer for the damages suffered as a result of the removal action.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

Sec. 21.029. TRIAL. (a) An officer shall have the right to trial by jury.

(b) The trial for the removal of an officer and the proceedings connected with the trial shall be conducted as much as possible in accordance with the rules and practice of the court in other civil cases, in the name of the State of Texas, and on the relation of the person filing the petition.

(c) In a removal case, the judge may not submit special issues to the jury. Under a proper charge applicable to the facts of the case, the judge shall instruct the jury to find from the evidence whether the grounds for removal alleged in the petition are true. If the petition alleges more than one ground for removal, the jury shall indicate in the verdict which grounds are sustained by the evidence and which are not sustained.

(d) The district attorney shall represent the state in a proceeding for the removal of an officer.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

Sec. 21.030. APPEAL. (a) Either party to a removal action may appeal the final judgment to the court of appeals in the manner provided for other civil cases. The officer is not required to post an appeal bond but may be required to post a bond for costs.

(b) An appeal of a removal action takes precedence over the ordinary business of the court of appeals and shall be decided with

all convenient dispatch. If the trial court judgment is not set aside or suspended, the court of appeals shall issue its mandate in the case not later than the fifth day after the date the court renders its judgment.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

Sec. 21.031. REMOVAL BY CRIMINAL CONVICTION. (a) The conviction of an officer for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office.

(b) The court rendering judgment in the case shall include in the judgment an order removing the officer.

(c) If the removed officer appeals the judgment, other than for an offense to which Section 180.010 applies, the appeal supersedes the order of removal unless the court that renders the judgment finds that it is in the public interest to suspend the removed officer pending the appeal. If the court finds that the public interest requires suspension, the court shall suspend the removed officer as provided by this subchapter.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 402, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1048 (S.B. 232), Sec. 2, eff. September 1, 2023.

Sec. 21.032. REELECTION PROHIBITED FOR CERTAIN PERIOD. An officer removed under this subchapter is not eligible for reelection to the same office before the second anniversary of the date of the removal.

Added by Acts 1999, 76th Leg., ch. 1567, Sec. 2, eff. Sept. 1, 1999.

SUBCHAPTER C. REMOVAL OF MEMBER OF GOVERNING BODY OF CERTAIN GENERAL-LAW MUNICIPALITIES FOLLOWING ELECTION

Sec. 21.101. REMOVAL BY RECALL ELECTION AUTHORIZED. A member of the governing body of a general-law municipality with a population

of less than 3,000 located in a county that borders the United Mexican States and contains a municipality with a population of more than 500,000 may be removed from office through a recall election initiated by petition as provided by this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 701 (H.B. 3015), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 119, eff. September 1, 2023.

Sec. 21.102. PETITION. (a) Before circulating a petition, a notice of intent to circulate a petition must be filed with the municipal clerk. A notice of intent to circulate a petition may not be filed before the 180th day after the date the officer whose removal is sought:

(1) was elected; or

(2) was subject to an unsuccessful recall election.

(b) After notice is filed under Subsection (a), a petition may be circulated. Each page of the petition must legibly and conspicuously:

(1) be titled "Recall Petition";

(2) state that the petition seeks to initiate a recall election to remove a member of the governing body;

(3) state the full name and title of the member whose removal is sought; and

(4) state the reasons for seeking removal.

(c) For a signature to be valid, it must:

(1) comply with the requirements of Section 277.002, Election Code; and

(2) be the signature of a registered voter in the territory that elected the member whose removal is sought.

(d) At least one signer of the petition must swear before a notary public or other person authorized to administer oaths that each signature on the petition was made by the person whose signature it purports to be, and that oath must be memorialized on the petition.

(e) A petition is valid if:

(1) the petition complies with the requirements of

Subsections (a), (b), (c), and (d) of this section and Chapter 277, Election Code;

(2) the total number of valid signatures on the petition equals at least 50 percent of the total number of votes cast in the most recent election of the member whose removal is sought that was not a runoff election; and

(3) the petition is filed with the municipal clerk not later than the 30th day after the date of the filing of notice under Subsection (a).

Added by Acts 2013, 83rd Leg., R.S., Ch. 701 (H.B. 3015), Sec. 1, eff. June 14, 2013.

Sec. 21.103. REVIEW OF PETITION. (a) Not later than the 10th day after the date a petition is filed, the municipal clerk shall review the petition and determine whether the petition is valid.

(b) If the municipal clerk determines the petition is valid, the clerk shall attach a certificate to the petition stating that the petition is valid and submit the petition and certificate to the governing body of the municipality as soon as practicable. If the clerk determines that the petition is not valid:

(1) the clerk shall attach a certificate to the petition stating the facts supporting the determination that the petition is not valid;

(2) the clerk shall notify the person who filed the petition of the clerk's determination;

(3) the petition may be amended or supplemented and resubmitted not later than the 10th day after the date of the certification under Subdivision (1); and

(4) the clerk shall return the petition to the person who filed it.

(c) The municipal clerk shall determine the validity of a petition resubmitted under Subsection (b)(3) in the same manner as the original submission except that if the clerk determines the petition is not valid the petition may not be further amended or supplemented and the recall election is not held.

Added by Acts 2013, 83rd Leg., R.S., Ch. 701 (H.B. 3015), Sec. 1, eff. June 14, 2013.

Sec. 21.104. ELECTION. (a) Unless the member who is the target of the petition resigns before the sixth day after the date a petition and certificate are delivered to the governing body of the municipality, the governing body shall order that a recall election be held on the first uniform election date that occurs 78 days after the date of the order.

(b) The ballot for a recall election shall be printed to permit voting for or against the proposition: "The removal of (name of the member of the governing body) from the governing body of (name of the municipality)".

(c) If less than a majority of the votes received at the recall election are in favor of removal of the member of the governing body named on the ballot, the member remains in office. If a majority of the votes received are in favor of the removal of the member, the governing body shall immediately declare the member's office vacant and the vacancy shall be filled in the manner prescribed by law for filling a vacancy on the governing body. A member removed by recall may not be appointed to fill the vacancy and may not be a candidate in any election called to fill the vacancy.

Added by Acts 2013, 83rd Leg., R.S., Ch. 701 (H.B. 3015), Sec. 1, eff. June 14, 2013.

Sec. 21.105. CLERK. In this subchapter, a municipal clerk includes a municipal secretary or any other officer of the municipality who performs the duties of a municipal clerk or secretary.

Added by Acts 2013, 83rd Leg., R.S., Ch. 701 (H.B. 3015), Sec. 1, eff. June 14, 2013.

CHAPTER 22. ALDERMANIC FORM OF GOVERNMENT IN TYPE A GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 22.001. CHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This chapter applies only to a Type A general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.002. CONTINUATION OF OFFICES IN MUNICIPALITY CHANGING TO TYPE A GENERAL-LAW MUNICIPALITY. If a municipality changes to a Type A general-law municipality under Subchapter B of Chapter 6, the officers serving in the municipality on the date of the change shall continue in office until their offices are superseded in conformity to the law applying to Type A general-law municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.003. DATE OF MUNICIPAL ELECTION. An election for officers of the municipality shall be held annually, except as otherwise provided by law, in each ward of the municipality on an authorized uniform election date as provided by Chapter 41, Election Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.004. PLURALITY VOTE REQUIRED FOR ELECTION OF MUNICIPAL OFFICER. To be elected to an office of the municipality, a person must receive more votes than any other person for the office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.005. OATH FOR ELECTED OR APPOINTED OFFICER. (a) A person who is elected or appointed to a municipal office under this code must take and sign the official oath of office before beginning to perform the duties of the office.

(b) The governing body of the municipality by ordinance may require a municipal officer to take any additional oath that the governing body considers best calculated to secure the faithful performance of the officer's duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.006. DATE ON WHICH OFFICERS BEGIN TO PERFORM DUTIES. A

newly elected municipal officer may exercise the duties of office beginning on the fifth day after the date of the election, excluding Sundays.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.007. VACANCY CREATED ON FAILURE TO QUALIFY. If a municipal officer-elect fails to qualify for office within 30 days after the date of the officer's election, the office is considered vacant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.008. DISQUALIFICATION FROM OFFICE. (a) An officer who is entrusted with the collection or custody of funds belonging to the municipality and who is in default to the municipality may not hold any municipal office until the amount of the default, plus 10 percent interest, is paid to the municipality.

(b) If a member of the governing body changes the member's place of residence to a location outside the corporate boundaries of the municipality, the member is automatically disqualified from holding the member's office and the office is considered vacant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1096 (H.B. 3727), Sec. 1, eff. September 1, 2017.

Sec. 22.009. REMOVAL FROM OFFICE FOR MISAPPROPRIATION OF SPECIAL FUNDS. A municipal officer who misappropriates money in a special fund created by the municipality under Section 101.004 is guilty of malfeasance in office. On the complaint of a person who has an interest in the affected funds, the officer shall be removed from office and is ineligible to hold any office in that municipality after removal.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.010. FILLING VACANCY ON GOVERNING BODY OR IN OTHER MUNICIPAL OFFICE. (a) If for any reason a single vacancy exists on the governing body of the municipality, a majority of the remaining members who are present and voting, excluding the mayor, may fill the vacancy by appointment unless an election to fill the vacancy is required by Section 11, Article XI, Texas Constitution. The mayor may vote on the appointment only if there is a tie.

(a-1) A person serving as a member of the governing body is not, because of that service, ineligible to be appointed to fill a vacancy in the office of mayor of the municipality, but the person may not vote on the person's own appointment.

(b) The person appointed to fill the vacancy serves until the next regular municipal election.

(c) In lieu of appointing a person to fill a vacancy on the governing body, a special election may be ordered to elect a person to fill the vacancy.

(d) If two or more vacancies on the governing body exist at the same time, a special election shall be ordered to fill the vacancies.

(d-1) A member of the governing body is ineligible to vote to fill a vacancy on the governing body by special election after resigning from the governing body.

(e) If a vacancy exists in any other municipal office, the mayor or acting mayor shall appoint a person to fill the vacancy, subject to confirmation by the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 513 (S.B. 653), Sec. 1, eff. June 16, 2007.

Acts 2017, 85th Leg., R.S., Ch. 1096 (H.B. 3727), Sec. 2, eff. September 1, 2017.

Sec. 22.011. FILLING VACANCY IN MUNICIPAL OFFICE UNDER SPECIAL CIRCUMSTANCES. If a vacancy occurs in a municipal office by a resignation or in another manner and if the vacancy cannot be filled as provided by other law, the commissioners court of the county in which the municipality is located shall order an election to fill the vacancy if the court is petitioned to do so by at least 26 taxpaying voters residing in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.012. RESIGNATION OF ELECTED OR APPOINTED MUNICIPAL OFFICER. A municipal officer elected or appointed under this chapter may resign by submitting the resignation in writing to the governing body of the municipality. The resignation is subject to the approval and acceptance of the governing body. However, a person who is appointed by the mayor may submit the written resignation to the mayor for the mayor's action.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. GOVERNING BODY

Sec. 22.031. COMPOSITION OF GOVERNING BODY; WARD SYSTEM OPTIONAL. (a) If the municipality is divided into wards, the governing body of the municipality consists of a mayor who is elected by the qualified voters of the municipality and of two aldermen from each ward who are elected by the qualified voters of the ward.

(b) If the municipality is not divided into wards, the governing body consists of a mayor and five aldermen who are elected by the qualified voters of the municipality, and the provisions of this subchapter relating to proceedings in a ward apply to the whole municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.032. QUALIFICATIONS OF MEMBERS OF GOVERNING BODY. (a) To be eligible for the office of mayor of the municipality, a person must be a registered voter and must have resided within the municipal limits for at least the 12 months preceding the election day. For purposes of this subsection, residency in an area while the area was not within the municipal limits is considered as residency within the limits if the area is a part of the municipality on election day.

(b) To be eligible for the office of alderman of the municipality, a person must be a registered voter and must reside on election day in the ward from which the person may be elected.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.033. GOVERNING BODY TO JUDGE ELECTION AND QUALIFICATION OF MEMBERS. The governing body of the municipality is the judge of the election and qualifications of its members.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.034. INITIAL ELECTION AND TERM OF OFFICE. (a) If the municipality is divided into wards, at the initial election for officers of the municipality, the mayor and the two aldermen from each ward shall be elected. The aldermen for each ward are the candidates from that ward who receive the highest and second highest number of votes at the initial election.

(b) The two aldermen elected from each ward shall draw lots at the first regular meeting of the governing body of the municipality to determine which alderman serves for one year and which alderman serves for two years after the initial election. At each following annual election, one alderman shall be elected from each ward for the regular term.

(c) If the municipality is not divided into wards, the governing body by ordinance may determine the number and the manner of deciding which aldermen elected at the initial election for officers serve for one year and which serve for two years.

(d) If the aldermen of the governing body of a municipality are not serving staggered terms of office as provided by Subsection (c), the governing body by majority vote may establish staggered terms by requiring the aldermen to draw lots.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 405 (H.B. 1434), Sec. 1, eff. June 9, 2023.

Sec. 22.035. REGULAR TERM OF OFFICE. The mayor and aldermen of the municipality are elected for a term of two years unless a longer term is established under Article XI, Section 11, of the Texas Constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.036. INSTALLATION OF GOVERNING BODY. On the fifth day after the date of the election, excluding Sundays, or as soon as possible after that fifth day, the newly elected governing body of the municipality shall meet at the usual meeting place and shall be installed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.037. MAYOR AS PRESIDING OFFICER; PRESIDENT PRO TEMPORE. (a) The mayor shall preside at all meetings of the governing body of the municipality and, except in elections, may vote only if there is a tie.

(b) At each new governing body's first meeting or as soon as practicable, the governing body shall elect one alderman to serve as president pro tempore for a term of one year.

(c) If the mayor fails, is unable, or refuses to act, the president pro tempore shall perform the mayor's duties and is entitled to receive the fees and compensation prescribed for the mayor.

(d) If the mayor and the president pro tempore are absent, any alderman may be appointed to preside at the meeting.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.038. MEETINGS. (a) The governing body of the municipality shall meet at the time and place determined by a resolution adopted by the governing body.

(b) The mayor may call a special meeting on the mayor's own motion and shall call a special meeting on the application of three aldermen. Each member of the governing body, the secretary, and the municipal attorney must be notified of the special meeting. The notice may be given personally or left at the person's usual place of residence.

(c) The governing body shall determine the rules of its proceedings and may compel the attendance of absent members and punish them for disorderly conduct.

(d) An alderman shall be fined $3 for each meeting that the alderman fails to attend unless the absence is caused by the alderman's illness or the illness of a family member.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 947 (H.B. 1734), Sec. 1, eff. June 14, 2013.

Sec. 22.039. QUORUM. A majority of the number of aldermen established by Section 22.031 for the municipality constitutes a quorum. However, at a called meeting or at a meeting to consider the imposition of taxes, two-thirds of the number of aldermen established by that section constitutes a quorum unless provided otherwise.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.040. CHANGE OF WARDS. (a) The governing body of the municipality may divide the municipality into as many wards as it considers necessary for the good of the residents and may change ward boundaries. The wards must contain an equal number of voters as far as practicable.
(b) The governing body may not change the number of wards or boundaries of a ward during the three-month period preceding the date of a municipal election.
(c) The wards of a municipality that changes to a Type A general-law municipality under Subchapter B, Chapter 6, are not affected by that action.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.041. VACANCY ON GOVERNING BODY IS CREATED. (a) If an alderman moves from the ward from which the alderman is elected, the alderman's office is considered vacant.
(b) If a member of the governing body is absent for three regular consecutive meetings, the member's office is considered vacant unless the member is sick or has first obtained a leave of absence at a regular meeting.

(c) In addition to an absence described by Subsection (b), a member of a governing body is also considered absent for the purposes of that subsection if the member is not present at the adjournment of a meeting at which a quorum is established, unless the member is first allowed to withdraw by the unanimous vote of the members present. This subsection applies only to a municipality that is located in a county that borders the United Mexican States and contains a municipality with a population of 500,000 or more.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 995 (H.B. 2259), Sec. 1, eff. June 14, 2013.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 120, eff. September 1, 2023.

Sec. 22.042. POWERS AND DUTIES OF MAYOR. (a) The mayor is the chief executive officer of the municipality. The mayor shall at all times actively ensure that the laws and ordinances of the municipality are properly carried out. The mayor shall perform the duties and exercise the powers prescribed by the governing body of the municipality.

(b) The mayor shall inspect the conduct of each subordinate municipal officer and shall cause any negligence, carelessness, or other violation of duty to be prosecuted and punished.

(c) The mayor shall give to the governing body any information, and shall recommend to the governing body any measure, that relates to improving the finances, police, health, security, cleanliness, comfort, ornament, or good government of the municipality.

(d) The mayor may administer oaths of office.

(e) In the event of a riot or unlawful assembly or to preserve the peace and good order in the municipality, the mayor may order and enforce the closing of a theater, ballroom, or other place of recreation or entertainment, or a public room or building and may order the arrest of a person who violates a state law or a municipal ordinance in the presence of the mayor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.043. PETITIONS AND REMONSTRANCES PRESENTED TO GOVERNING BODY. Petitions and remonstrances may be presented to the governing body of the municipality and must be in writing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 22.071. OTHER MUNICIPAL OFFICERS. (a) In addition to the members of the governing body of the municipality, the other officers of the municipality are the secretary, treasurer, assessor and collector, municipal attorney, marshal, municipal engineer, and any other officers or agents authorized by the governing body.

(b) The governing body by ordinance shall provide for the election or appointment of the officers provided by this section.

(c) The governing body may confer on other municipal officers the powers and duties of an officer provided for by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.072. POWERS AND DUTIES OF MUNICIPAL OFFICERS; BOND. (a) The governing body of the municipality may require a municipal officer whose duties are prescribed by this code to perform additional duties.

(b) The governing body may prescribe the powers and duties of a municipal officer appointed or elected to an office under this code whose duties are not specified by this code.

(c) The governing body may require a municipal officer to execute a bond payable to the municipality and conditioned that the officer will faithfully perform the duties of the office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.073. POWERS AND DUTIES OF SECRETARY. (a) The secretary of the municipality shall attend each meeting of the governing body of the municipality and shall keep, in a record provided for that purpose, accurate minutes of the governing body's proceedings.

(b) The secretary shall:

(1) engross and enroll all laws, resolutions, and ordinances of the governing body;

(2) keep the corporate seal;

(3) take charge of, arrange, and maintain the records of the governing body;

(4) countersign all commissions issued to municipal officers and all licenses issued by the mayor, and keep a record of those commissions and licenses; and

(5) prepare all notices required under any regulation or ordinance of the municipality.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1324, Sec. 5(2), eff. June 17, 2011.

(d) The secretary shall draw all the warrants on the treasurer, countersign the warrants, and keep, in a record provided for that purpose, an accurate account of the warrants.

(e) The secretary serves as the general accountant of the municipality and shall keep regular accounts of the municipal receipts and disbursements. The secretary shall keep each cause of receipt and disbursement separately and under proper headings. The secretary shall also keep separate accounts with each person, including each officer, who has monetary transactions with the municipality. The secretary shall credit accounts allowed by proper authority and shall specify the particular transaction to which each entry applies. The secretary shall keep records of the accounts and other information covered by this subsection.

(f) The secretary shall keep a register of bonds and bills issued by the municipality and all evidence of debt due and payable to the municipality, noting the relevant particulars and facts as they occur.

(g) The secretary shall carefully keep all contracts made by the governing body.

(h) The secretary shall perform all other duties required by law, ordinance, resolution, or order of the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 47, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 3(2), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 5(2), eff.

June 17, 2011.

Sec. 22.074. CERTIFICATION OF SECRETARIES. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) A person may be certified to practice as a municipal secretary in this state. The person shall be granted a certificate on completion of a program of instruction for municipal secretaries conducted at an institution of higher education.

(c) A private association of secretaries of municipalities may contract with an institution of higher education to use the facilities of the institution to provide a program of instruction for municipal secretaries. The association shall develop the program with the assistance of the institution. The institution shall approve a program that meets qualifications for approval developed by the institution. The association shall conduct the program at the institution.

(d) A private association of secretaries that establishes a program of instruction under this section shall pay the costs of the program, including the payment of a reasonable fee to the institution that houses the program for the use of the institution's facilities. State funds may not be appropriated to finance a certification program established under this section.

(e) A private association of secretaries that establishes a program of instruction under this section shall issue a certificate to each person who successfully completes the program. A person who holds a certificate issued under this section must renew the certificate not later than five years after the date on which the original certificate was issued. The person may renew the certificate on completion of a supplementary program of instruction conducted at the institution of higher education.

(f) This section does not require a person to be certified as a municipal secretary in order to practice in that capacity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.075. BOND AND DUTIES OF TREASURER. (a) The treasurer of the municipality shall execute a bond. The bond must:

(1) be in favor of the municipality;

(2) be in the form and amount required by the governing body of the municipality;

(3) have security approved as sufficient by the governing body; and

(4) be conditioned that the treasurer will faithfully discharge the duties of the office.

(b) The treasurer shall receive and securely keep all money belonging to the municipality. The treasurer shall make all payments on the order of the mayor, attested by the secretary of the municipality under the seal of the municipality. The treasurer may not pay an order unless the face of the order shows that the governing body directed the issuance of the order and shows the purpose for which it is issued.

(c) The treasurer shall render to the governing body a full statement of the receipts and payments. The statement must be rendered at the governing body's first regular meeting in every quarter and at other times as required by the governing body.

(d) The treasurer shall perform other acts and duties as the governing body requires.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.076. BOND OF MARSHAL; ABOLITION OF OFFICE. (a) The marshal of the municipality shall execute a bond. The bond must be conditioned that the marshal will faithfully perform the official duties as the governing body of the municipality may require.

(b) The governing body of a municipality with a population of less than 5,000 by ordinance may abolish the office of marshal and, at the same time in the ordinance, confer the duties of the office on a municipal police officer appointed as the governing body directs or on any other peace officer of the county. However, an elected marshal may not be removed from office under this subsection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.077. REMOVAL OF MUNICIPAL OFFICERS. (a) The governing body of the municipality may remove a municipal officer for incompetency, corruption, misconduct, or malfeasance in office after

providing the officer with due notice and an opportunity to be heard.

(b) If the governing body lacks confidence in a municipal officer appointed by the governing body, the governing body may remove the officer at any time. The removal is effective only if two-thirds of the elected aldermen vote in favor of a resolution declaring the lack of confidence.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 4, eff. Sept. 1, 2001.

CHAPTER 23. ALDERMANIC FORM OF GOVERNMENT IN TYPE B GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 23.001. CHAPTER APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY. This chapter applies only to a Type B general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.002. FILLING VACANCY IN MUNICIPAL OFFICE. (a) The aldermen on the governing body of the municipality shall fill any vacancy that occurs in an office created by this chapter or created under this chapter by the governing body unless an election to fill the vacancy is required by Article XI, Section 11, of the Texas Constitution. The vacant office shall be filled for the unexpired term only.

(b) A person serving as a member of the governing body is not, because of that service, ineligible to be appointed to fill a vacancy in the office of mayor of the municipality, but the person may not vote on the person's own appointment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 513 (S.B. 653), Sec. 2, eff. June 16, 2007.

SUBCHAPTER B. GOVERNING BODY AND MARSHAL

Sec. 23.021. INITIAL ELECTION OF GOVERNING BODY AND MARSHAL.

Immediately after the municipality has incorporated, the county judge of the county in which the municipality is located shall order an election for a mayor, five aldermen, and a marshal.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.022. INITIAL MAYOR. Immediately after election returns for the initial election for municipal officers have been made, the county judge shall commission the candidate who received the highest number of votes for the office of mayor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.023. REGULAR ANNUAL ELECTION. (a) After the initial election, the election for the mayor, aldermen, and marshal shall be held annually, except as otherwise provided by law, on an authorized uniform election date as provided by Chapter 41, Election Code.

(b) The mayor, or any two aldermen if the mayor is unable or refuses to act, shall order the election.

(c) In addition to the notice required by Chapter 4, Election Code, the authority ordering the election shall post notice for at least the 20 days preceding election day in at least three public places within the municipal limits.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.024. QUALIFICATIONS OF GOVERNING BODY AND MARSHAL; BOND FOR MARSHAL. (a) To be eligible for the office of mayor, alderman, or marshal of the municipality, a person must be a qualified voter in the municipality and must have resided within the municipal limits for at least the six months preceding election day.

(b) The governing body shall prescribe the bond and security that the marshal must execute. The bond must be executed within five days after the date the marshal is elected or appointed, must be approved by the mayor before the marshal begins to perform the duties of the office, and must be payable to the municipality. If the marshal does not execute the bond within the required period, the governing body may appoint another person to the office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.025. INITIAL TERM OF OFFICE. The mayor, aldermen, and marshal elected at the initial election under Section 23.021 hold office until their successors have been duly elected at the following annual municipal election and have qualified.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.026. REGULAR TERM OF OFFICE. (a) The mayor, aldermen, and marshal of the municipality are elected for a term of one year unless a longer term is established under Subsection (b) or under Article XI, Section 11, of the Texas Constitution.

(b) In lieu of one-year terms of office, the governing body may provide by ordinance for two-year staggered terms of office for the mayor and aldermen. If the governing body adopts the ordinance, the mayor and two aldermen serve for a term of two years. The two aldermen who serve two-year terms are determined by drawing lots at the first meeting of the governing body following the annual municipal election held after the ordinance is adopted. The remaining aldermen hold office for an initial term of one year. Thereafter, all members of the governing body serve for a term of two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.027. PRESIDENT; PRESIDENT PRO TEMPORE. (a) The mayor is the president of the governing body of the municipality.

(b) At the first meeting of each new governing body or as soon as practicable, the governing body shall elect one alderman to serve as president pro tempore for a term of one year. The president pro tempore performs the duties of the mayor if the mayor fails, is unable, or refuses to act.

(c) If the mayor and president pro tempore are absent from a meeting, the aldermen present at the meeting may appoint any alderman to act as the presiding officer if a quorum is present.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.028. QUORUM. (a) The mayor and three aldermen constitute a quorum.

(b) If the mayor is absent, four aldermen constitute a quorum.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.029. ABOLITION OF OFFICE OF MARSHAL. The governing body of a municipality with a population of less than 5,000 by ordinance may abolish the office of marshal and, by the same ordinance, confer the duties of the office on a municipal police officer appointed as the governing body directs or on any other peace officer of the county. However, an elected marshal may not be removed from office under this section.

Added by Acts 1995, 74th Leg., ch. 573, Sec. 1, eff. Aug. 28, 1995.

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 23.051. OTHER MUNICIPAL OFFICERS. The governing body of the municipality may appoint officers, other than the mayor, aldermen, or marshal, as necessary to carry out the municipality's functions under this code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.052. DUTIES OF MUNICIPAL OFFICERS; BOND. (a) The governing body of the municipality may prescribe the duties of the officers it appoints under this subchapter.

(b) The governing body shall prescribe the bonds and security that an appointed municipal officer must execute. The bond must be executed within five days after the date the officer is appointed, must be approved by the mayor before the officer begins to perform the duties of the office, and must be payable to the municipality. If the officer does not execute the bond within the required period, the governing body may appoint another person to the office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 23.053. REMOVAL OF MUNICIPAL OFFICERS. The governing body of the municipality may dismiss at any time the officers that it appoints under this subchapter and may appoint others in their places.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 24. COMMISSION FORM OF GOVERNMENT IN GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 24.001. CHAPTER APPLICABLE TO TYPE C GENERAL-LAW MUNICIPALITY. This chapter applies only to a Type C general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. GOVERNING BODY

Sec. 24.021. INITIAL ELECTION OF GOVERNING BODY OF COMMUNITY INCORPORATING AS TYPE C GENERAL-LAW MUNICIPALITY; INITIAL TERM. (a) At the election at which a community votes to incorporate as a Type C general-law municipality, a mayor and two commissioners must be elected.

(b) The officers elected under this section serve until the date of the first regular election for municipal officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 24.022. INITIAL ELECTION OF GOVERNING BODY OF MUNICIPALITY CHANGING TO TYPE C GENERAL-LAW MUNICIPALITY; INITIAL TERM. (a) The mayor of a municipality that votes to change to a Type C general-law municipality continues to hold office for the term for which the mayor was elected.

(b) At the election at which a municipality votes to change to a Type C general-law municipality, two commissioners shall be elected. The commissioners serve until the date of the first regular election for municipal officers.

(c) After the initial commissioners elected under Subsection

(b) have qualified for office, the offices of the former governing body of the municipality are abolished and the mayor and the commissioners constitute the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 24.023. REGULAR TERM OF OFFICE; REGULAR ELECTION DATE. (a) The mayor and commissioners of the municipality serve for a term of two years unless a longer term is established under Article XI, Section 11, of the Texas Constitution.

(b) The election for mayor and commissioners shall be held on an authorized uniform election date as provided by Chapter 41, Election Code.

(c) The first regular election must be on an authorized uniform election date occurring:

(1) in the case of a community incorporating as a Type C general-law municipality, within one year after the expiration of the month in which the incorporation election is held; or

(2) in the case of a municipality changing to a Type C general-law municipality, within one year after the month in which the election on the change is held.

(d) In a city incorporated under this chapter with a population of over 10,000 residents, the governing body may adopt an ordinance to determine if commissioners may be elected in alternate years or in the same election year. Elections under this subsection shall be held on an authorized uniform election date as provided by Chapter 41, Election Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 555 (H.B. 2920), Sec. 1, eff. September 1, 2011.

Sec. 24.024. BOND OF MAYOR AND COMMISSIONERS. (a) The mayor and each commissioner of the municipality must execute a bond. The bond must be:

(1) in the amount of $3,000;

(2) conditioned that the mayor or commissioner will faithfully perform the duties of the office;

(3) payable to the municipality for its use and benefit; and

(4) approved by the governing body.

(b) The bonds of the initial commissioners must be approved by the governing body within 20 days after the date the county judge or the mayor enters the order under Section 8.006 or 8.026.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 24.025. MEETINGS. (a) The governing body of the municipality shall hold at least one regular monthly meeting.

(b) The mayor or two commissioners may call special meetings as necessary to attend to municipal business.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 24.026. FILLING VACANCY ON GOVERNING BODY. (a) If the mayor or commissioner of a municipality dies or resigns, the other members of the governing body of the municipality shall appoint a person to fill the vacancy. A person serving as a member of the governing body is not, because of that service, ineligible to be appointed to fill a vacancy in the office of mayor of the municipality, but the person may not vote on the person's own appointment.

(b) If, because of death, resignation, failure to qualify, or other reason, vacancies exist in the offices of mayor and commissioner at the same time or in the offices of two commissioners at the same time, the county judge shall order a special election to fill the vacancies. The election is governed by the provisions applicable to an election under Subchapter A, Chapter 8.

(c) The county judge shall certify the results of the election to the clerk of the governing body and the clerk shall enter the results in the minutes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 513 (S.B. 653), Sec. 3, eff. June 16, 2007.

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 24.051. OTHER MUNICIPAL OFFICERS; DUTIES. (a) The governing body of the municipality may appoint a municipal attorney and other officers that the governing body considers necessary.

(b) The governing body may define the duties of the officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 24.052. CLERK AND TAX ASSESSOR-COLLECTOR; BOND; POWERS AND DUTIES. (a) The governing body of the municipality shall appoint a competent person as clerk of the municipality. The clerk is also the tax assessor-collector of the municipality.

(b) Before beginning to perform the duties of the office, the clerk must execute a good and sufficient bond with a surety company authorized to do business in this state. The bond must be:

(1) in an amount determined by the governing body to be sufficient to protect the funds of the municipality, but not less than twice the largest amount collected at any one time in the preceding fiscal or calendar year;

(2) approved by the governing body; and

(3) filed and recorded in the minutes of the governing body.

(c) The clerk has the same powers and duties that are imposed by the general laws on the clerk, treasurer, and tax assessor-collector of a Type A or Type B general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 24.053. ABOLITION OF MUNICIPAL OFFICE; DISCHARGE OF OFFICER OR EMPLOYEE. At any time, the governing body of the municipality may abolish an office that it creates and may discharge an officer, clerk, or employee that it appoints.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. CHANGE FROM COMMISSION FORM OF GOVERNMENT TO ANOTHER

FORM

Sec. 24.071. CHANGE FROM COMMISSION FORM OF GOVERNMENT TO ANOTHER FORM. (a) A Type C general-law municipality operating under the commission form of government may adopt the aldermanic form of government provided by Chapter 22 or may adopt any other lawful form of government by majority vote at an election ordered and held for that purpose.

(b) An election to consider changing from the commission form of government to another form of government must be ordered and held as provided by the provisions of Subchapter B, Chapter 8, relating to an election to change to a Type C general-law municipality.

(c) If a Type C general-law municipality adopts the aldermanic form of government, the mayor and two commissioners holding office immediately before the election continue to hold office as mayor and aldermen for the remainder of their terms.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 25. CITY MANAGER FORM OF GOVERNMENT IN GENERAL-LAW MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 25.001. CHAPTER APPLICABLE TO GENERAL-LAW MUNICIPALITY WITH POPULATION OF LESS THAN 5,000. This chapter applies only to a general-law municipality with a population of less than 5,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. CITY MANAGER

Sec. 25.021. ADOPTION OF CITY MANAGER FORM OF GOVERNMENT. The municipality, by first holding an election on the question, may adopt the city manager form of government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 25.022. PETITION. (a) The residents of the municipality may file a petition with the clerk of the municipality requesting the mayor to call a special election to determine whether the municipality shall adopt the city manager form of government.

(b) The petition must be signed by a number of qualified voters equal to at least 20 percent of the total number of qualified voters who voted for mayor at the most recent municipal election at which the office of mayor was to be filled.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 25.023. PROCLAMATION ORDERING ELECTION. (a) Within 10 days after the date a petition is filed, the mayor of the municipality shall issue a proclamation ordering a special election.

(b) The proclamation must state that the election is ordered to determine whether the municipality will adopt the city manager form of government and must be signed by the mayor and attested by the clerk of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 25.024. NOTICE OF ELECTION. A copy of the proclamation must be posted in at least five conspicuous places in the municipality for at least the 10 days preceding election day.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 25.025. ELECTION; ADOPTION. (a) After a petition is filed, an election to consider the adoption of the city manager form of government must be held on the first authorized uniform election date prescribed by the Election Code that occurs after the date the petition is filed under Section 25.022 and that affords enough time to hold the election in the manner required by law. Each qualified voter in the municipality is entitled to vote in the election.

(b) The ballots at an election under this subchapter shall be printed to provide for voting for or against the proposition: The governing body of the municipality of _____ (name of the municipality) appointing a city manager and setting by ordinance the salary of the manager.

(c) A municipality holding an election under this subchapter shall operate under the city manager form of government if a majority of the votes cast at the election are for its adoption.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 25.026. APPOINTMENT OF CITY MANAGER. If the city manager form of government is adopted, the governing body of the municipality shall appoint a city manager within 60 days after the election day and by ordinance shall set the manager's salary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 25.027. QUALIFICATIONS OF CITY MANAGER. (a) The governing body of the municipality shall appoint the city manager solely on the basis of the person's administrative ability.

(b) The city manager is not required to meet any residency qualifications.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 25.028. TERM OF OFFICE. The city manager is appointed by and serves at the will of the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 25.029. POWERS AND DUTIES OF CITY MANAGER; BOND. (a) The city manager shall administer the municipal business and the governing body of the municipality shall ensure that the administration is efficient.

(b) The governing body by ordinance may delegate to the city manager any additional powers or duties the governing body considers proper for the efficient administration of municipal affairs.

(c) The city manager must execute a bond. The bond must be conditioned that the manager will faithfully perform the duties of manager and must be in an amount prescribed by ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 25.051. OTHER MUNICIPAL OFFICERS. (a) After a municipality adopts the city manager form of government under this chapter, all municipal officers, except members of the governing body of the municipality, shall be appointed as provided by ordinance. However, an elected officer serving at the time of the adoption of the city manager form of government may continue to serve until the expiration of the officer's term.

(b) This chapter does not limit the authority of the governing body of a general-law municipality to appoint and prescribe the powers and duties of a municipal officer or employee under Chapter 22, 23, or 24.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1185, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1206, Sec. 2, eff. June 20, 2003.

SUBCHAPTER D. ABANDONING CITY MANAGER FORM OF GOVERNMENT

Sec. 25.071. ABANDONING CITY MANAGER FORM OF GOVERNMENT. (a) A municipality may abandon the city manager form of government at any time as provided by this section.

(b) A petition requesting the mayor of the municipality to order a special election to abandon the city manager form of government must be filed with the clerk of the municipality and signed by a number of qualified voters equal to at least 20 percent of the total number of qualified voters who voted for mayor at the most recent municipal election at which the office of mayor was to be filled.

(c) Within 10 days after the date a petition is filed under Subsection (b), the mayor shall issue a proclamation ordering the special election. The proclamation must state that the election is ordered to determine whether the municipality will abandon the city manager form of government and notice of the election must be as for an election to consider the adoption of the city manager form of government.

(d) The election must be held on the first authorized uniform election date prescribed by the Election Code that occurs after the date the petition is filed under Subsection (b) and that affords enough time to hold the election in the manner required by law.

(e) The ballots at the election shall be printed to provide for

voting for or against the proposition: Abandoning the city manager form of government in the municipality of _____ (name of the municipality).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 25.072. DUTIES OF GOVERNING BODY IF CITY MANAGER FORM IS ABANDONED. (a) If a majority of votes cast at an election under this subchapter are for abandoning the city manager form of government, the governing body of the municipality shall discharge the city manager within 60 days after the election day.

(b) When the city manager is discharged, the governing body shall assume the powers and duties given to the governing body by law as if the city manager form of government had never been adopted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 26. FORM OF GOVERNMENT IN HOME-RULE MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 26.001. CHAPTER APPLICABLE TO HOME-RULE MUNICIPALITY. This chapter applies only to a home-rule municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. FORM OF GOVERNMENT

Sec. 26.021. FORM OF GOVERNMENT. The municipality may adopt and operate under any form of government, including the aldermanic or commission form.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. MUNICIPAL OFFICERS

Sec. 26.041. CREATION OF MUNICIPAL OFFICES. The municipality may:

(1) create offices;

(2) determine the method for selecting officers; and

(3) prescribe the qualifications, duties, and tenure of

office for officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 26.042. DATE FOR ELECTION OF OFFICERS. The governing body of the municipality may set the date of election for municipal officers in accordance with applicable provisions of the Election Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 26.043. FILLING VACANCY IN ELECTIVE OFFICE IN MUNICIPALITY WITH POPULATION OF 384,000 OR MORE. (a) If a vacancy occurs in an elective office of a municipality with a population of 384,000 or more and if the charter of the municipality does not provide for the filling of the vacancy, the governing body of the municipality, by majority vote, shall appoint an individual to fill the vacated office for the unexpired term. Pending that appointment, the governing body may appoint a person on a temporary basis to serve for a period not to exceed 60 days.

(b) A person appointed under Subsection (a) must possess the qualifications required of the elected official.

(c) If the municipality holds an election to vote on proposed amendments to its charter, it shall at that time submit a proposed charter amendment to provide a method for filling vacancies in elective offices.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 26.044. ELECTION FROM SINGLE-MEMBER AND AT-LARGE DISTRICTS; LIMITATION ON YEARS OF SERVICE. (a) The governing body of a municipality with a population of 1.5 million or more must consist of one mayor elected at large, 16 members elected from single-member districts, and six members elected at large. Each member representing a single-member district must reside in the district.

(b) This section supersedes any charter provision or ordinance adopted before January 1, 1992. The municipality may adopt a

different composition or organization of its governing body in a manner provided by its charter on or after January 1, 1992.

(c) The municipality may provide for the members of the governing body to serve staggered terms.

(d) After each redistricting, the terms of the members of the governing body representing single-member districts expire, and an election shall be held in each new district to fill the position for that district.

(e) The districts must be compact and contiguous and as equal as practicable in population.

(f) A municipality having the population provided by Subsection (a) according to the 1980 federal decennial census and covered by Subsection (a) under the 1990 federal decennial census must comply with Subsection (a) not later than May 1, 1992. Before that date, the governing body of the municipality may implement the transition to a governing body that complies with Subsection (a) as it determines appropriate.

(g) A municipality to which this section applies for the first time under the 1990 or a subsequent federal decennial census must comply with Subsection (a) before the next January 1 that occurs at least one year after the date the official census data for the municipality is made public by the United States Bureau of the Census.

(h) Subsections (a) through (f) apply to a municipality having the population described by Subsection (a) under the 1980 and 1990 federal decennial censuses only if a finding is made that representation of the citizens of the municipality requires that the governing body consist of members as required by Subsection (a). The finding must be made by the voters of the municipality voting at an election on the question. The mayor of the municipality shall order an election on the question for the November 1991 uniform election date. The mayor shall order the ballot for the election to be printed to provide for voting for or against the proposition: "Representation of the citizens of the municipality of (name of the municipality) requires that the governing body of the municipality consist of (a description of the requirements of Subsection (a))." If a majority of the votes cast at the election favor the proposition, the finding required by this subsection is considered to have been made, and this section shall be implemented in the municipality. If a majority of the votes cast are not in favor of the proposition,

this section has no effect in the municipality.

(i) If this section takes effect on or before July 1, 1991, the election as required by Subsection (h) shall be held on August 10, 1991, as required by Section 41.001, Election Code, instead of on the November 1991 uniform election date.

(j) Repealed by Acts 1993, 73rd Leg., ch. 919, Sec. 2, eff. Aug. 30, 1993.

Added by Acts 1991, 72nd Leg., ch. 666, Sec. 1, eff. June 16, 1991. Amended by Acts 1993, 73rd Leg., ch. 919, Sec. 2, eff. Aug. 30, 1993.

Sec. 26.045. FILLING VACANCY ON GOVERNING BODY OF MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE. (a) Except as provided by Subsection (b), if a vacancy occurs on the governing body of a municipality with a population of 1.5 million or more and more than 270 days remain before the date of the next general election of members of the governing body, the governing body shall order a special election in the district in which the vacancy occurred, or in the entire municipality if the vacancy occurred in an at-large position, to fill the vacancy. The special election shall be held on an authorized uniform election date prescribed by the Election Code that occurs before the general election and that allows enough time to hold the election in the manner required by law and shall be conducted in the same manner as the municipality's general election except as provided by provisions of the Election Code applicable to special elections to fill vacancies.

(b) This section does not apply to a municipality that has provided by charter or charter amendment a different procedure to fill a vacancy on its governing body for which the unexpired term is 12 months or less.

Added by Acts 1993, 73rd Leg., ch. 919, Sec. 1, eff. Aug. 30, 1993. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1394 (H.B. 1372), Sec. 1, eff. November 5, 2013.

Sec. 26.046. SIZE OF GOVERNING BODY: CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 1.1 million or more that elects each member of its governing body

other than the mayor from fewer than 14 single-member districts.

(b) Notwithstanding a charter provision to the contrary, the municipality may provide by ordinance for the number of districts used to elect members to the municipality's governing body. The ordinance may not provide for more than 14 districts.

(c) This section does not affect a mayor who, under a charter provision, is elected in a municipality at large.

Added by Acts 2001, 77th Leg., ch. 1179, Sec. 1, eff. June 15, 2001.

Sec. 26.047. FILLING VACANCY IN OFFICE OF MAYOR. Unless otherwise provided by the charter of the municipality or this chapter, a person serving as a member of the governing body of the municipality is not, because of that service, ineligible to be appointed to fill a vacancy in the office of mayor of the municipality, but the person may not vote on the person's own appointment.

Added by Acts 2007, 80th Leg., R.S., Ch. 513 (S.B. 653), Sec. 4, eff. June 16, 2007.

SUBTITLE C. MUNICIPAL BOUNDARIES AND ANNEXATION

CHAPTER 41. MUNICIPAL BOUNDARIES

Sec. 41.001. MAP OF MUNICIPAL BOUNDARIES AND EXTRATERRITORIAL JURISDICTION. (a) Each municipality shall prepare a map that shows the boundaries of the municipality and of its extraterritorial jurisdiction. The municipality shall maintain a copy of the map in a location that is easily accessible to the public, including:

(1) in the office of the secretary or clerk of the municipality;

(2) if the municipality has a municipal engineer, in the office of the engineer; and

(3) if the municipality maintains an Internet website, on the municipality's website.

(a-1) A municipality shall make a copy of a map required under Subsection (a) available without charge.

(b) If the municipality annexes territory, the map shall be immediately corrected to include the annexed territory. The map shall be annotated to indicate:

(1) the date of annexation;

(2) the number of the annexation ordinance, if any; and

(3) a reference to the minutes or municipal ordinance records in which the ordinance is recorded in full.

(c) If the municipality's extraterritorial jurisdiction is expanded or reduced, the map shall be immediately corrected to indicate the change in the municipality's extraterritorial jurisdiction. The map shall be annotated to indicate:

(1) the date the municipality's extraterritorial jurisdiction was changed;

(2) the number of the ordinance or resolution, if any, by which the change was made; and

(3) a reference to the minutes or municipal ordinance or resolution records in which the ordinance or resolution is recorded in full.

(d) In addition to the requirements of this section, a home-rule municipality shall create, or contract for the creation of, and make publicly available a digital map that complies with this section. A digital map required under this subsection must be made available without charge and in a format widely used by common geographic information system software. If the municipality maintains an Internet website, the municipality shall make the digital map available on the municipality's website.

(e) A home-rule municipality that does not have common geographic information system software shall make the digital map available in any other widely used electronic format in accordance with Subsection (d).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 970, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1217 (S.B. 1303), Sec. 1, eff. September 1, 2019.

Sec. 41.0015. NOTICE OF MUNICIPAL BOUNDARY CHANGE. (a) If an area is annexed to or disannexed from a municipality, the mayor or other presiding officer of the governing body of the municipality shall, within 30 days after the date of preclearance under Section 5, Federal Voting Rights Act (42 U.S.C. Sec. 1973c), of the annexation

or disannexation, send to the county clerk of each county in which the municipality is located a certified copy of documents showing the change in boundaries.

(b) The county shall promptly correct to reflect the change in municipal boundaries any official county map kept by the county that would be affected by the change.

Added by Acts 1989, 71st Leg., ch. 1160, Sec. 1, eff. Aug. 28, 1989.

Sec. 41.002. BOUNDARY SURVEY IN GENERAL-LAW MUNICIPALITIES. (a) Immediately after the members of the governing body of a newly incorporated general-law municipality qualify for office, the governing body shall adopt an ordinance requiring a survey of the boundaries of the municipality to be made.

(b) The survey must be based on the boundaries designated in the petition for incorporation. The field notes of the survey must be recorded in the minutes of the municipality and in the deed records of the county in which the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 41.003. INCLUSION OF AREA RECEIVING LONGSTANDING TREATMENT AS PART OF MUNICIPALITY. (a) The governing body of a municipality may adopt an ordinance to declare an area that is adjacent to the municipality and that meets the requirements of Subsection (b) to be a part of the municipality. The adoption of the ordinance creates an irrebuttable presumption that the area is a part of the municipality for all purposes. The presumption may not be contested for any cause after the effective date of the ordinance.

(b) An area qualifies for inclusion in a municipality under this section only if, on the date of the adoption of the ordinance:

(1) the records of the municipality indicate that the area has been a part of the municipality for at least the preceding 20 years;

(2) the municipality has provided municipal services, including police protection, to the area and has otherwise treated the area as a part of the municipality during the preceding 20 years;

(3) there has not been a final judicial determination during the preceding 20 years that the area is outside the boundaries

of the municipality; and

(4) there is no pending lawsuit that challenges the inclusion of the area as part of the municipality.

(c) The date on which an area that is made a part of a municipality under this section is considered to be a part of the municipality is retroactive to the date on which the municipality began its continuous treatment of the area as part of the municipality. That date shall be used for all relevant purposes, including a determination of whether territory allegedly annexed by the municipality was adjacent to the municipality at the time of the purported annexation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 41.004. BOUNDARIES NOT AFFECTED BY CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY. If a municipality changes to a Type A general-law municipality under Subchapter B of Chapter 6, the boundaries of the municipality remain the same as they existed under the law governing the municipality before the change. After the change, the boundaries are subject to the law governing Type A general-law municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 42. EXTRATERRITORIAL JURISDICTION OF MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. PURPOSE OF EXTRATERRITORIAL JURISDICTION. The legislature declares it the policy of the state to designate certain areas as the extraterritorial jurisdiction of municipalities to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. DETERMINATION OF EXTRATERRITORIAL JURISDICTION

Sec. 42.021. EXTENT OF EXTRATERRITORIAL JURISDICTION. (a) The extraterritorial jurisdiction of a municipality is the unincorporated area that is contiguous to the corporate boundaries of the

municipality and that is located:

(1) within one-half mile of those boundaries, in the case of a municipality with fewer than 5,000 inhabitants;

(2) within one mile of those boundaries, in the case of a municipality with 5,000 to 24,999 inhabitants;

(3) within two miles of those boundaries, in the case of a municipality with 25,000 to 49,999 inhabitants;

(4) within 3-1/2 miles of those boundaries, in the case of a municipality with 50,000 to 99,999 inhabitants; or

(5) within five miles of those boundaries, in the case of a municipality with 100,000 or more inhabitants.

(b) Regardless of Subsection (a), the extraterritorial jurisdiction of a municipality is the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located:

(1) within five miles of those boundaries on a barrier island; or

(2) within one-half mile of those boundaries off a barrier island.

(c) Subsection (b) applies to a municipality that has:

(1) a population of 2,000 or more; and

(2) territory located:

(A) entirely on a barrier island in the Gulf of Mexico; and

(B) within 30 miles of an international border.

(d) Regardless of Subsection (a), the extraterritorial jurisdiction of a municipality is the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located within three miles of those boundaries if the municipality:

(1) has a population of not less than 25,000 or more than 27,000; and

(2) is located in a county that has a population of 45,000 or more and borders the Trinity River.

(e) An annexation commenced after January 1, 2023, does not expand the extraterritorial jurisdiction of a municipality unless contemporaneously with the annexation the owner or owners of the area that would be included in the municipality's extraterritorial jurisdiction as a result of the annexation request that the area be included in the municipality's extraterritorial jurisdiction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 761 (H.B. 3325), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 215 (H.B. 91), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 612 (S.B. 508), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(33), eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 121, eff. September 1, 2023.

Sec. 42.022. EXPANSION OF EXTRATERRITORIAL JURISDICTION. (a) When a municipality annexes an area, the extraterritorial jurisdiction of the municipality expands with the annexation to comprise, consistent with Section 42.021, the area around the new municipal boundaries.

(b) The extraterritorial jurisdiction of a municipality may expand beyond the distance limitations imposed by Section 42.021 to include an area contiguous to the otherwise existing extraterritorial jurisdiction of the municipality if the owners of the area request the expansion.

(c) The expansion of the extraterritorial jurisdiction of a municipality through annexation, request, or increase in the number of inhabitants may not include any area in the existing extraterritorial jurisdiction of another municipality, except as provided by Subsection (d).

(d) The extraterritorial jurisdiction of a municipality may be expanded through annexation to include area that on the date of annexation is located in the extraterritorial jurisdiction of another municipality if a written agreement between the municipalities in effect on the date of annexation allocates the area to the extraterritorial jurisdiction of the annexing municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 337 (H.B. 2902), Sec. 1, eff. June 17, 2011.

Sec. 42.0225. EXTRATERRITORIAL JURISDICTION AROUND CERTAIN MUNICIPALLY OWNED PROPERTY. (a) This section applies only to an area owned by a municipality that is:

(1) annexed by the municipality; and

(2) not contiguous to other territory of the municipality.

(b) Notwithstanding Section 42.021, the annexation of an area described by Subsection (a) does not expand the extraterritorial jurisdiction of the municipality.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 1, eff. Sept. 1, 1999.

Sec. 42.023. REDUCTION OF EXTRATERRITORIAL JURISDICTION. The extraterritorial jurisdiction of a municipality may not be reduced unless the governing body of the municipality gives its written consent by ordinance or resolution, except:

(1) in cases of judicial apportionment of overlapping extraterritorial jurisdictions under Section 42.901;

(2) in accordance with an agreement under Section 42.022(d);

(3) as necessary to comply with Section 42.0235; or

(4) as necessary to comply with Subchapter D or E.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 337 (H.B. 2902), Sec. 2, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 941 (H.B. 4059), Sec. 1, eff. June 18, 2015.

Acts 2025, 89th Leg., R.S., Ch. 1041 (H.B. 2512), Sec. 1, eff. September 1, 2025.

Sec. 42.0235. LIMITATION ON EXTRATERRITORIAL JURISDICTION OF CERTAIN MUNICIPALITIES. (a) Notwithstanding Section 42.021, and except as provided by Subsection (d), the extraterritorial jurisdiction of a municipality with a population of more than 175,000

located in a county that contains an international border and borders the Gulf of Mexico terminates two miles from the extraterritorial jurisdiction of a neighboring municipality if extension of the extraterritorial jurisdiction beyond that limit would:

(1) completely surround the corporate boundaries or extraterritorial jurisdiction of the neighboring municipality; and

(2) limit the growth of the neighboring municipality by precluding the expansion of the neighboring municipality's extraterritorial jurisdiction.

(b) A municipality shall release extraterritorial jurisdiction as necessary to comply with Subsection (a).

(c) Notwithstanding any other law, a municipality that owns an electric system and that releases extraterritorial jurisdiction under Subsection (b) may provide electric service in the released area to the same extent that the service would have been provided if the municipality had annexed the area.

(d) Extraterritorial jurisdiction for a municipality subject to this section is determined under Section 42.021 if the governing body of the municipality and the governing body of the neighboring municipality each adopt, on or after June 1, 2017, resolutions stating that the determination of extraterritorial jurisdiction under Section 42.0235(a) is not in the best interest of the municipality.

Added by Acts 2015, 84th Leg., R.S., Ch. 941 (H.B. 4059), Sec. 2, eff. June 18, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 447 (S.B. 468), Sec. 1, eff. September 1, 2017.

Sec. 42.024. TRANSFER OF EXTRATERRITORIAL JURISDICTION BETWEEN CERTAIN MUNICIPALITIES. (a) In this section:

(1) "Adopting municipality" means a home-rule municipality with a population of less than 25,000 that purchases and appropriates raw water for its water utility through a transbasin diversion permit from one or two river authorities in which the municipality has territory.

(2) "Releasing municipality" means a home-rule municipality with a population of more than 450,000 that owns an electric utility, that has a charter provision allowing for limited-purpose annexation,

and that has annexed territory for a limited purpose.

(b) The governing body of an adopting municipality may by resolution include in its extraterritorial jurisdiction an area that is in the extraterritorial jurisdiction of a releasing municipality if:

(1) the releasing municipality does not provide water, sewer services, and electricity to the released area;

(2) the owners of a majority of the land within the released area request that the adopting municipality include in its extraterritorial jurisdiction the released area;

(3) the released area is:

(A) adjacent to the territory of the adopting municipality;

(B) wholly within a county in which both municipalities have territory; and

(C) located in one or more school districts, each of which has the majority of its territory outside the territory of the releasing municipality;

(4) the adopting municipality adopts ordinances or regulations within the released area for water quality standards relating to the control or abatement of water pollution that are in conformity with those of the Texas Commission on Environmental Quality applicable to the released area on January 1, 1995;

(5) the adopting municipality has adopted a service plan to provide water and sewer service to the area acceptable to the owners of a majority of the land within the released area; and

(6) the size of the released area does not exceed the difference between the total area within the extraterritorial jurisdiction of the adopting municipality, exclusive of the extraterritorial jurisdiction of the releasing municipality, on the date the resolution was adopted under this subsection, as determined by Section 42.021, and the total area within the adopting municipality's extraterritorial jurisdiction on the date of the resolution.

(c)(1) The service plan under Subsection (b)(5) shall include an assessment of the availability and feasibility of participation in any regional facility permitted by the Texas Commission on Environmental Quality in which the releasing municipality is a participant and had plans to provide service to the released area. The plan for regional service shall include:

(A) proposed dates for providing sewer service through the regional facility;

(B) terms of financial participation to provide sewer service to the released area, including rates proposed for service sufficient to reimburse the regional participants over a reasonable time for any expenditures associated with that portion of the regional facility designed or constructed to serve the released area as of January 1, 1993; and

(C) participation by the adopting municipality in governance of the regional facility based on the percentage of land to be served by the regional facility in the released area compared to the total land area to be served by the regional facility.

(2) The adopting municipality shall deliver a copy of the service plan to the releasing municipality and any other participant in any regional facility described in this subsection at least 30 days before the resolution to assume extraterritorial jurisdiction. The releasing municipality and any other participant in any regional facility described in this subsection by resolution shall, within 30 days of delivery of the service plan, either accept that portion of the service plan related to participation by the adopting municipality in the regional facility or propose alternative terms of participation.

(3) If the adopting municipality, the releasing municipality, and any other participant in any regional facility described in this subsection fail to reach agreement on the service plan within 60 days after the service plan is delivered, any municipality that is a participant in the regional facility or any owner of land within the area to be released may appeal the matter to the Texas Commission on Environmental Quality. The Texas Commission on Environmental Quality shall, in its resolution of any differences between proposals submitted for review in this subsection, use a cost-of-service allocation methodology which treats each service unit in the regional facility equally, with any variance in rates to be based only on differences in costs based on the time service is provided to an area served by the regional facility. The Texas Commission on Environmental Quality may allow the adopting municipality, the releasing municipality, or any other participant in any regional facility described in this subsection to withdraw from participation in the regional facility on a showing of undue financial hardship.

(4) A decision by the Texas Commission on Environmental Quality under this subsection is not subject to judicial review, and any costs associated with the commission's review shall be assessed to the parties to the decision in proportion to the percentage of land served by the regional facility subject to review in the jurisdiction of each party.

(5) The releasing municipality shall not, prior to January 1, 1997, discontinue or terminate any interlocal agreement, contract, or commitment relating to water or sewer service that it has as of January 1, 1995, with the adopting municipality without the consent of the adopting municipality.

(d) On the date the adopting municipality delivers a copy of the resolution under Subsection (b) to the municipal clerk of the releasing municipality, the released area shall be included in the extraterritorial jurisdiction of the adopting municipality and excluded from the extraterritorial jurisdiction of the releasing municipality.

(e) If any part of a tract of land, owned either in fee simple or under common control or undivided ownership, was or becomes split, before or after the dedication or deed of a portion of the land for a public purpose, between the extraterritorial jurisdiction of a releasing municipality and the jurisdiction of another municipality, or is land described in Subsection (b)(3)(C), the authority to act under Chapter 212 and the authority to regulate development and building with respect to the tract of land is, on the request of the owner to the municipality, with the municipality selected by the owner of the tract of land. The municipality selected under this subsection may also provide or authorize another person or entity to provide municipal services to land subject to this subsection.

(f) Nothing in this section requires the releasing municipality to continue to participate in a regional wastewater treatment plant providing service, or to provide new services, to any territory within the released area.

(g) This section controls over any conflicting provision of this subchapter.

Added by Acts 1995, 74th Leg., ch. 766, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 986 (S.B. 766), Sec. 30, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 986 (S.B. 766), Sec. 31, eff. September 1, 2025.

Sec. 42.025. RELEASE OF EXTRATERRITORIAL JURISDICTION BY CERTAIN MUNICIPALITIES. (a) In this section, "eligible property" means any portion of a contiguous tract of land:

(1) that is located in the extraterritorial jurisdiction of a municipality within one-half mile of the territory of a proposed municipal airport;

(2) for which a contract for land acquisition services was awarded by the municipality; and

(3) that has not been acquired through the contract described by Subdivision (2) for the proposed municipal airport.

(b) The owner of eligible property may petition the municipality to release the property from the municipality's extraterritorial jurisdiction not later than June 1, 1996. The petition must be filed with the secretary or clerk of the municipality.

(c) Not later than the 10th day after the date the secretary or clerk receives a petition under Subsection (b), the municipality by resolution shall release the eligible property from the extraterritorial jurisdiction of the municipality.

(d) Eligible property that is released from the extraterritorial jurisdiction of a municipality under Subsection (c) may be included in the extraterritorial jurisdiction of another municipality if:

(1) any part of the other municipality is located in the same county as the property; and

(2) the other municipality and the owner agree to the inclusion of the property in the extraterritorial jurisdiction.

Added by Acts 1995, 74th Leg., ch. 788, Sec. 1, eff. June 16, 1995. Renumbered from Local Government Code Sec. 42.024 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(64), eff. Sept. 1, 1997.

Sec. 42.0251. RELEASE OF EXTRATERRITORIAL JURISDICTION BY CERTAIN GENERAL-LAW MUNICIPALITIES. (a) This section applies only to a general-law municipality:

(1) that has a population of less than 4,000;

(2) that is located in a county with a population of more than 800,000 that is adjacent to a county with a population of more than four million; and

(3) in which at least two-thirds of the residents reside within a gated community.

(b) A municipality shall release an area from its extraterritorial jurisdiction not later than the 10th day after the date the municipality receives a petition requesting that the area be released that is signed by at least 80 percent of the owners of real property located in the area requesting release.

Added by Acts 2011, 82nd Leg., R.S., Ch. 337 (H.B. 2902), Sec. 3, eff. June 17, 2011.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 122, eff. September 1, 2023.

Sec. 42.026. LIMITATION ON EXTRATERRITORIAL JURISDICTION OF CERTAIN MUNICIPALITIES. (a) In this section, "navigable stream" has the meaning assigned by Section 21.001, Natural Resources Code.

(b) This section applies only to an area that is:

(1) located in the extraterritorial jurisdiction of a home-rule municipality that has a population of 60,000 or less and is located in whole or in part in a county with a population of 240,000 or less;

(2) located outside the county in which a majority of the land area of the municipality is located; and

(3) separated from the municipality's corporate boundaries by a navigable stream.

(c) A municipality that, on August 31, 1999, includes that area in its extraterritorial jurisdiction shall, before January 1, 2000:

(1) adopt an ordinance removing that area from the municipality's extraterritorial jurisdiction; or

(2) enter into an agreement with a municipality located in the county in which that area is located to transfer that area to the extraterritorial jurisdiction of that municipality.

(d) If the municipality that is required to act under Subsection (c) does not do so as provided by that subsection, the

area is automatically removed from the extraterritorial jurisdiction of that municipality on January 1, 2000.

(e) Section 42.021 does not apply to a transfer of extraterritorial jurisdiction under Subsection (c)(2).

Added by Acts 1999, 76th Leg., ch. 1494, Sec. 1, eff. Aug. 30, 1999.

SUBCHAPTER C. CREATION OR EXPANSION OF GOVERNMENTAL ENTITIES IN EXTRATERRITORIAL JURISDICTION

Sec. 42.041. MUNICIPAL INCORPORATION IN EXTRATERRITORIAL JURISDICTION GENERALLY. (a) A municipality may not be incorporated in the extraterritorial jurisdiction of an existing municipality unless the governing body of the existing municipality gives its written consent by ordinance or resolution.

(b) If the governing body of the existing municipality refuses to give its consent, a majority of the qualified voters of the area of the proposed municipality and the owners of at least 50 percent of the land in the proposed municipality may petition the governing body to annex the area. If the governing body fails or refuses to annex the area within six months after the date it receives the petition, that failure or refusal constitutes the governing body's consent to the incorporation of the proposed municipality.

(c) The consent to the incorporation of the proposed municipality is only an authorization to initiate incorporation proceedings as provided by law.

(d) If the consent to initiate incorporation proceedings is obtained, the incorporation must be initiated within six months after the date of the consent and must be finally completed within 18 months after the date of the consent. Failure to comply with either time requirement terminates the consent.

(e) This section applies only to the proposed municipality's area located in the extraterritorial jurisdiction of the existing municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 287 (H.B. 585), Sec. 1, eff. June 16, 2005.

For expiration of Subsections (c) and (d), see Subsections (c) and (d).

Sec. 42.0411. MUNICIPAL INCORPORATION IN EXTRATERRITORIAL JURISDICTION OF CERTAIN MUNICIPALITIES. (a) This section applies only to:

(1) an area located north and east of Interstate Highway 10 that is included in the extraterritorial jurisdiction, or the limited-purpose annexation area, of a municipality with a population of one million or more that has operated under a three-year annexation plan similar to the municipal annexation plan described by Section 43.052 for at least 10 years; or

(2) an area located north and east of Interstate Highway 10:

(A) that is included in the extraterritorial jurisdiction, or the limited-purpose annexation area, of a municipality with a population of one million or more that has operated under a three-year annexation plan similar to the municipal annexation plan described by Section 43.052 for at least 10 years;

(B) that has not been included in the municipality's annexation plan described by Section 43.052 before the 180th day before the date consent for incorporation is requested under Section 42.041(a); and

(C) for which the municipality refused to give its consent to incorporation under Section 42.041(a).

(b) The residents of the area described by Subsection (a)(2) may initiate an attempt to incorporate as a municipality by filing a written petition signed by at least 10 percent of the registered voters of the area of the proposed municipality with the county judge of the county in which the proposed municipality is located. The petition must request the county judge to order an election to determine whether the area of the proposed municipality will incorporate. An incorporation election under this section shall be conducted in the same manner as an incorporation election under Subchapter A, Chapter 8. The consent of the municipality that previously refused to give consent is not required for the incorporation.

(c) In this subsection, "deferred annexation area" means an area that has entered into an agreement with a municipality under which the municipality defers annexation of the area for at least 10 years. An area described by Subsection (a)(1) that is located within

1-1/2 miles of a municipality's deferred annexation area or adjacent to the corporate boundaries of the municipality may not be annexed for limited or full purposes during the period provided under the agreement. During the period provided under the agreement, the residents of the area may incorporate in accordance with the incorporation proceedings provided by law, except that the consent of the municipality is not required for the incorporation. This subsection expires on the later of:

(1) September 1, 2009; or

(2) the date that all areas entitled to incorporate under this subsection have incorporated.

(d) This subsection applies only to an area that is described by Subsection (a)(1) and removed from a municipality's annexation plan under Section 43.052(e) two times or more. The residents of the area and any adjacent territory that is located within the extraterritorial jurisdiction of the municipality or located within an area annexed for limited purposes by the municipality and that is adjacent to the corporate boundaries of the municipality may incorporate in accordance with the incorporation proceedings provided by law, except that the consent of the municipality is not required for the incorporation. This subsection expires on the later of:

(1) September 1, 2009; or

(2) the date that all areas entitled to incorporate under this subsection have incorporated.

Added by Acts 2005, 79th Leg., Ch. 287 (H.B. 585), Sec. 2, eff. June 16, 2005.

Sec. 42.042. CREATION OF POLITICAL SUBDIVISION TO SUPPLY WATER OR SEWER SERVICES, ROADWAYS, OR DRAINAGE FACILITIES IN EXTRATERRITORIAL JURISDICTION. (a) A political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage, may not be created in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this subsection and the Water Code. In giving its consent, the municipality may not place any conditions or other restrictions on the creation of the political subdivision other than those expressly permitted by

Sections 54.016(e) and (i), Water Code.

(b) If the governing body fails or refuses to give its consent for the creation of the political subdivision, including a water district previously created by an act of the legislature, on mutually agreeable terms within 90 days after the date the governing body receives a written request for the consent, a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision may petition the governing body to make available to the area the water, sanitary sewer services, or both that would be provided by the political subdivision.

(c) If, within 120 days after the date the governing body receives the petition, the governing body fails to make a contract with a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision to provide the services, that failure constitutes the governing body's consent to the creation of the proposed political subdivision.

(d) The consent to the creation of the political subdivision is only an authorization to initiate proceedings to create the political subdivision as provided by law.

(e) Repealed by Acts 1997, 75th Leg., ch. 1070, Sec. 55, eff. Sept. 1, 1997.

(f) If the municipality fails or refuses to give its consent to the creation of the political subdivision, including a water district previously created by an act of the legislature, or fails or refuses to execute a contract providing for the water or sanitary sewer services requested within the time limits prescribed by this section, the applicant may petition the Texas Commission on Environmental Quality for the creation of the political subdivision or the inclusion of the land in a political subdivision. The commission shall allow creation or confirmation of the creation of the political subdivision or inclusion of the land in a proposed political subdivision on finding that the municipality either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. The commitment must provide that construction of the facilities necessary to serve the land will begin within two years and will be substantially completed within 4-1/2

years after the date the petition was filed with the municipality.

(g) On an appeal taken to the district court from the ruling of the Texas Commission on Environmental Quality, all parties to the commission hearing must be made parties to the appeal. The court shall hear the appeal within 120 days after the date the appeal is filed. If the case is continued or appealed to a higher court beyond the 120-day period, the court shall require the appealing party or party requesting the continuance to post a bond or other adequate security in the amount of damages that may be incurred by any party as a result of the appeal or delay from the commission action. The amount of the bond or other security shall be determined by the court after notice and hearing. On final disposition, a court may award damages, including any damages for delays, attorney's fees, and costs of court to the prevailing party.

(h) A municipality may not unilaterally extend the time limits prescribed by this section through the adoption of preapplication periods or by passage of any rules, resolutions, ordinances, or charter provisions. However, the municipality and the petitioner may jointly petition the Texas Commission on Environmental Quality to request an extension of the time limits.

(i) Repealed by Acts 1989, 71st Leg., ch. 1058, Sec. 1, eff. Sept. 1, 1989.

(j) The consent requirements of this section do not apply to the creation of a special utility district under Chapter 65, Water Code. If a special utility district is to be converted to a district with taxing authority that provides utility services, this section applies to the conversion.

(k) This section, except Subsection (i), applies only to the proposed political subdivision's area located in the extraterritorial jurisdiction of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1058, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 11.254, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1098 (H.B. 3378), Sec. 1, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1128 (H.B. 2590), Sec. 1, eff. September 1, 2019.

Sec. 42.0425. ADDITION OF LAND IN EXTRATERRITORIAL JURISDICTION OF MUNICIPALITY TO CERTAIN POLITICAL SUBDIVISIONS. (a) A political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage, may not add land that is located in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this section and the Water Code. In giving its consent, the municipality may not place any conditions or other restrictions on the expansion of the political subdivision other than those expressly permitted by Section 54.016(e), Water Code.

(b) The procedures under Section 42.042 governing a municipality's refusal to consent to the creation of a political subdivision apply to a municipality that refuses to consent to the addition of land to a political subdivision under this section.

(c) An owner of land in the area proposed to be added to the political subdivision may not unreasonably refuse to enter into a contract for water or sanitary sewer services with the municipality under Section 42.042(c).

(d) This section does not apply to a political subdivision created by Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993.

Added by Acts 2007, 80th Leg., R.S., Ch. 703 (H.B. 2091), Sec. 2, eff. June 15, 2007.

Sec. 42.043. REQUIREMENTS APPLYING TO PETITION. (a) A petition under Section 42.041 or 42.042 must:

(1) be written;

(2) request that the area be annexed or that the services be made available, as appropriate;

(3) be signed in ink or indelible pencil by the appropriate voters and landowners;

(4) be signed, in the case of a person signing as a voter, as the person's name appears on the most recent official list of registered voters;

(5) contain, in the case of a person signing as a voter, a note made by the person stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;

(6) contain, in the case of a person signing as a landowner, a note made by the person opposite the person's name stating the approximate total acreage that the person owns in the area to be annexed or serviced;

(7) describe the area to be annexed or serviced and have a plat of the area attached; and

(8) be presented to the secretary or clerk of the municipality.

(b) The signatures to the petition need not be appended to one paper.

(c) Before the petition is circulated among the voters and landowners, notice of the petition must be given by posting a copy of the petition for 10 days in three public places in the area to be annexed or serviced and by publishing the notice once, in a newspaper of general circulation serving the area, before the 15th day before the date the petition is first circulated. Proof of posting and publication must be made by attaching to the petition presented to the secretary or clerk:

(1) the affidavit of any voter who signed the petition, stating the places and dates of the posting;

(2) the affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication; and

(3) the affidavit of at least three voters who signed the petition, if there are that many, stating the total number of voters residing in the area and the approximate total acreage in the area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.044. CREATION OF INDUSTRIAL DISTRICT IN EXTRATERRITORIAL JURISDICTION. (a) In this section, "industrial district" has the meaning customarily given to the term but also includes any area in which tourist-related businesses and facilities are located.

(b) The governing body of a municipality may designate any part

of its extraterritorial jurisdiction as an industrial district and may treat the designated area in a manner considered by the governing body to be in the best interests of the municipality.

(c) The governing body may make written contracts with owners of land in the industrial district:

(1) to guarantee the continuation of the extraterritorial status of the district and its immunity from annexation by the municipality for a period not to exceed 15 years; and

(2) with other lawful terms and considerations that the parties agree to be reasonable, appropriate, and not unduly restrictive of business activities.

(d) The parties to a contract may renew or extend it for successive periods not to exceed 15 years each. In the event any owner of land in an industrial district is offered an opportunity to renew or extend a contract, then all owners of land in that industrial district must be offered an opportunity to renew or extend a contract subject to the provisions of Subsection (c).

(e) A municipality may provide for adequate fire-fighting services in the industrial district by:

(1) directly furnishing fire-fighting services that are to be paid for by the property owners of the district;

(2) contracting for fire-fighting services, whether or not all or a part of the services are to be paid for by the property owners of the district; or

(3) contracting with the property owners of the district to have them provide for their own fire-fighting services.

(f) A property owner who provides for his own fire-fighting services under this section may not be required to pay any part of the cost of the fire-fighting services provided by the municipality to other property owners in the district.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 975, Sec. 1, eff. Aug. 30, 1993.

Sec. 42.045. CREATION OF POLITICAL SUBDIVISION IN INDUSTRIAL DISTRICT. (a) A political subdivision, one purpose of which is to provide services of a governmental or proprietary nature, may not be created in an industrial district designated under Section 42.044 by a municipality unless the municipality gives its written consent by

ordinance or resolution. The municipality shall give or deny consent within 60 days after the date the municipality receives a written request for consent. Failure to give or deny consent in the allotted period constitutes the municipality's consent to the initiation of the creation proceedings.

(b) If the consent is obtained, the creation proceedings must be initiated within six months after the date of the consent and must be finally completed within 18 months after the date of the consent. Failure to comply with either time requirement terminates the consent for the proceedings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.046. DESIGNATION OF A PLANNED UNIT DEVELOPMENT DISTRICT IN EXTRATERRITORIAL JURISDICTION. (a) The governing body of a municipality that has disannexed territory previously annexed for limited purposes may designate an area within its extraterritorial jurisdiction as a planned unit development district by written agreement with the owner of the land under Subsection (b). The agreement shall be recorded in the deed records of the county or counties in which the land is located. A planned unit development district designated under this section shall contain no less than 250 acres. If there are more than four owners of land to be designated as a single planned unit development, each owner shall appoint a single person to negotiate with the municipality and authorize that person to bind each owner for purposes of this section.

(b) An agreement governing the creation, development, and existence of a planned unit development district established under this section shall be between the governing body of the municipality and the owner of the land subject to the agreement. The agreement shall not be effective until signed by both parties and by any other person with an interest in the land, as that interest is evidenced by an instrument recorded in the deed records of the county or counties in which the land is located. The parties may agree:

(1) to guarantee continuation of the extraterritorial status of the planned unit development district and its immunity from annexation by the municipality for a period not to exceed 15 years after the effective date of the agreement;

(2) to authorize certain land uses and development within

the planned unit development;

(3) to authorize enforcement by the municipality of certain municipal land use and development regulations within the planned unit development district, in the same manner such regulations are enforced within the municipality's boundaries, as may be agreed by the landowner and the municipality;

(4) to vary any watershed protection regulations;

(5) to authorize or restrict the creation of political subdivisions within the planned unit development district; and

(6) to such other terms and considerations the parties consider appropriate.

(c) The agreement between the governing body of the municipality and the owner of the land within the planned unit development district shall be binding upon all subsequent governing bodies of the municipality and subsequent owners of the land within the planned unit development district for the term of the agreement.

(d) An agreement or a decision made under this section and an action taken under the agreement by the parties to the agreement are not subject to an approval or an appeal brought under Section 26.177, Water Code.

Added by Acts 1989, 71st Leg., ch. 822, Sec. 5, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 891, Sec. 1, eff. June 8, 1991.

Sec. 42.047. CREATION OF A POLITICAL SUBDIVISION IN AN AREA PROPOSED FOR A PLANNED UNIT DEVELOPMENT DISTRICT. If the governing body of a municipality that has disannexed territory previously annexed for limited purposes refuses to designate a planned unit development district under Section 42.046 no later than 180 days after the date a request for the designation is filed with the municipality by the owner of the land to be included in the planned unit development district, the municipality shall be considered to have given the consent required by Section 42.041 to the incorporation of a proposed municipality including within its boundaries all or some of such land. If consent to incorporation is granted by this subsection, the consenting municipality waives all rights to challenge the proposed incorporation in any court.

Added by Acts 1989, 71st Leg., ch. 822, Sec. 5, eff. Sept. 1, 1989.

Sec. 42.049. AUTHORITY OF WELLS BRANCH MUNICIPAL UTILITY DISTRICT. (a) Wells Branch Municipal Utility district is authorized to contract with a municipality:

(1) to provide for payments to be made to the municipality for purposes that the governing body of the district determines will further regional cooperation between the district and the municipality; and

(2) to provide other lawful terms and considerations that the district and the municipality agree are reasonable and appropriate.

(b) A contract entered into under this section may be for a term that is mutually agreeable to the parties. The parties to such a contract may renew or extend the contract.

(c) A municipality may contract with the district to accomplish the purposes set forth in Subsection (a) of this section. In a contract entered into under this section, a municipality may agree that the district will remain in existence and be exempt from annexation by the municipality for the term of the contract.

(d) A contract entered into under this section will be binding on all subsequent governing bodies of the district and of the municipality for the term of the contract.

(e) The district may make annual appropriations from its operations and maintenance tax or other revenues lawfully available to the district to make payments to a municipality under a contract entered into under this section.

Added by Acts 1999, 76th Leg., ch. 926, Sec. 4, eff. June 18, 1999.

SUBCHAPTER D. RELEASE OF AREA BY PETITION OF LANDOWNER OR RESIDENT FROM EXTRATERRITORIAL JURISDICTION

Sec. 42.101. APPLICABILITY. This subchapter does not apply to an area located:

(1) within five miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted;

(2) in an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county:

(A) in which the population grew by more than 50 percent from the previous federal decennial census in the federal

decennial census conducted in 2020; and

(B) that has a population greater than 240,000;

(3) within the portion of the extraterritorial jurisdiction of a municipality with a population of more than 1.4 million that is:

(A) within 15 miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted; and

(B) in a county with a population of more than two million;

(4) in an area designated as an industrial district under Section 42.044;

(5) in an area subject to a strategic partnership agreement entered into under Section 43.0751; or

(6) for the extraterritorial jurisdiction of a municipality located in four or more counties, one of which has a population of 2.1 million or more and is adjacent to a county with a population of 2.6 million or more:

(A) in an area subject to an active development agreement entered into under Section 212.172 with the municipality;

(B) in a platted or unplatted lot of less than 12 acres unless included with the other land in a petition for release under Section 42.102; or

(C) within a platted subdivision of 25 or more lots if the area is a single lot.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 1041 (H.B. 2512), Sec. 2, eff. September 1, 2025.

Sec. 42.102. AUTHORITY TO FILE PETITION FOR RELEASE. (a) A resident of an area in a municipality's extraterritorial jurisdiction may file a petition with the municipality in accordance with this subchapter for the area to be released from the extraterritorial jurisdiction.

(b) The owner or owners of the majority in value of an area consisting of one or more parcels of land in a municipality's extraterritorial jurisdiction may file a petition with the

municipality in accordance with this subchapter for the area to be released from the extraterritorial jurisdiction.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

Sec. 42.103. APPLICABILITY OF OTHER LAW. Chapter 277, Election Code, applies to a petition requesting removal under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

Sec. 42.104. PETITION REQUIREMENTS. (a) A petition requesting release under this subchapter must be signed by:

(1) more than 50 percent of the registered voters of the area described by the petition as of the date of the preceding uniform election date; or

(2) a majority in value of the holders of title of land in the area described by the petition, as indicated by the tax rolls of the applicable central appraisal district.

(b) A person filing a petition under this subchapter must satisfy the signature requirement described by Subsection (a) not later than the 180th day after the date the first signature for the petition is obtained.

(c) A signature collected under this section must be in writing.

(d) The petition must include a map of the land to be released and describe the boundaries of the land to be released by:

(1) metes and bounds; or

(2) lot and block number, if there is a recorded map or plat.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

Sec. 42.105. RESULTS OF PETITION. (a) A petition requesting removal under this subchapter shall be verified by the municipal secretary or other person responsible for verifying signatures.

(b) The municipality shall notify the residents and landowners of the area described by the petition of the results of the petition. The municipality may satisfy this requirement by notifying the person who filed the petition under Section 42.102.

(c) If a resident or landowner obtains the number of signatures on the petition required under Section 42.104 to release the area from the municipality's extraterritorial jurisdiction, the municipality shall immediately release the area from the municipality's extraterritorial jurisdiction.

(d) If a municipality fails to take action to release the area under Subsection (c) by the later of the 45th day after the date the municipality receives the petition or the next meeting of the municipality's governing body that occurs after the 30th day after the date the municipality receives the petition, the area is released by operation of law.

(e) Notwithstanding any other law, an area released from a municipality's extraterritorial jurisdiction under this section may not be included in the extraterritorial jurisdiction or the corporate boundaries of a municipality, unless the owner or owners of the area subsequently request that the area be included in the municipality's extraterritorial jurisdiction or corporate boundaries.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

SUBCHAPTER E. RELEASE OF AREA BY ELECTION FROM EXTRATERRITORIAL JURISDICTION

Sec. 42.151. APPLICABILITY. This subchapter does not apply to an area located:

(1) within five miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted;

(2) in an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county:

(A) in which the population grew by more than 50 percent from the previous federal decennial census in the federal decennial census conducted in 2020; and

(B) that has a population greater than 240,000;

(3) within the portion of the extraterritorial jurisdiction

of a municipality with a population of more than 1.4 million that is:

(A) within 15 miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted; and

(B) in a county with a population of more than two million;

(4) in an area designated as an industrial district under Section 42.044;

(5) in an area subject to a strategic partnership agreement entered into under Section 43.0751; or

(6) for the extraterritorial jurisdiction of a municipality located in four or more counties, one of which has a population of 2.1 million or more and is adjacent to a county with a population of 2.6 million or more:

(A) in an area subject to an active development agreement entered into under Section 212.172 with the municipality;

(B) in a platted or unplatted lot of less than 12 acres unless included with the other land in a petition for release under Section 42.152; or

(C) within a platted subdivision of 25 or more lots if the area is a single lot.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 1041 (H.B. 2512), Sec. 3, eff. September 1, 2025.

Sec. 42.152. AUTHORITY TO REQUEST ELECTION FOR RELEASE. (a) A resident of an area in a municipality's extraterritorial jurisdiction may request the municipality to hold an election in accordance with this subchapter to vote on the question of whether to release the area from the municipality's extraterritorial jurisdiction by filing with the municipality a petition that includes the signatures of at least five percent of the registered voters residing in the area as of the date of the preceding uniform election date. A resident may only file for release of an area if the resident resides in the area subject to the release.

(b) A resident may not request another election on the question

of releasing the same or substantially same area from the municipality's extraterritorial jurisdiction before the second anniversary of the date the municipality receives a petition filed under Subsection (a).

(c) The petition must include a map of the land to be released and describe the boundaries of the land to be released by:

(1) metes and bounds; or

(2) lot and block number, if there is a recorded map or plat.

(d) If a municipality receives a petition under this section, the municipality shall provide notice of the petition to the residents and landowners of the area described by the petition. The municipality shall provide the notice not later than the seventh business day after the date the municipality receives the petition.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 1041 (H.B. 2512), Sec. 4, eff. September 1, 2025.

Sec. 42.153. ELECTION. (a) Except as provided by Section 42.156, a municipality shall order an election on the question of whether to release an area from the municipality's extraterritorial jurisdiction to be held on the first uniform election date that falls on or after the 90th day after the date the municipality receives a petition that complies with Section 42.152.

(b) The municipality shall hold the election ordered under this section in the area described by the petition at which the qualified voters of the area described by the petition may vote on the question of the release.

(c) An election ordered under this section must be held in the same manner as general elections of the municipality. The municipality shall pay for the costs of holding the election.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

Sec. 42.154. RESULTS OF ELECTION. (a) The governing body of a

municipality shall canvass the election returns for an election held under this subchapter in accordance with Chapter 67, Election Code.

(b) Not later than 48 hours after the canvass of an election held under this subchapter, the municipality shall notify the residents of the area proposed to be released from the municipality's extraterritorial jurisdiction of the results of the election. The municipality may satisfy this requirement by notifying the person who filed the petition under Section 42.152.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

Sec. 42.155. RELEASE OF AREA AS RESULT OF ELECTION. (a) If at the election held under this subchapter a majority of qualified voters of the area to be released approve the proposed release, the municipality shall immediately release the area from the municipality's extraterritorial jurisdiction.

(b) If the municipality fails to take action to release the area under Subsection (a) by the later of the next meeting of the municipality's governing body or the 15th day after the canvass date for the election, the area is released by operation of law.

(c) Notwithstanding any other law, an area released from a municipality's extraterritorial jurisdiction under this section may not be included in the extraterritorial jurisdiction or the corporate boundaries of a municipality, unless the owner or owners of the area subsequently request that the area be included in the municipality's extraterritorial jurisdiction or corporate boundaries.

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

Sec. 42.156. VOLUNTARY RELEASE. Instead of holding an election under Section 42.153, the municipality may voluntarily release the area for which the election is to be held from the municipality's extraterritorial jurisdiction before the date on which the election would have been held under Section 42.153(a).

Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

Sec. 42.157. OPT OUT OF REMOVAL. Before an area is released from a municipality's extraterritorial jurisdiction under this subchapter, a landowner in the area to be released must be provided the opportunity to have the landowner's property remain within the municipality's extraterritorial jurisdiction.

Added by Acts 2025, 89th Leg., R.S., Ch. 1041 (H.B. 2512), Sec. 5, eff. September 1, 2025.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 42.901. APPORTIONMENT OF EXTRATERRITORIAL JURISDICTIONS THAT OVERLAPPED ON AUGUST 23, 1963. (a) If, on August 23, 1963, the extraterritorial jurisdiction of a municipality overlapped the extraterritorial jurisdiction of one or more other municipalities, the governing bodies of the affected municipalities may apportion the overlapped area by a written agreement approved by an ordinance or a resolution adopted by the governing bodies.

(b) A municipality having a claim of extraterritorial jurisdiction to the overlapping area may bring an action as plaintiff in the district court of the judicial district in which the largest municipality having a claim to the area is located. The plaintiff municipality must name as a defendant each municipality having a claim of extraterritorial jurisdiction to the area and must request the court to apportion the area among the affected municipalities. In apportioning the area, the court shall consider population densities, patterns of growth, transportation, topography, and land use in the municipalities and the overlapping area. The area must be apportioned among the municipalities:

(1) so that each municipality's part is contiguous to the extraterritorial jurisdiction of the municipality or, if the extraterritorial jurisdiction of the municipality is totally overlapped, is contiguous to the boundaries of the municipality;

(2) so that each municipality's part is in a substantially compact shape; and

(3) in the same ratio, to one decimal, that the respective populations of the municipalities bear to each other, but with each municipality receiving at least one-tenth of the area.

(c) An apportionment under this section must consider existing property lines. A tract of land or adjoining tracts of land that were under one ownership on August 23, 1963, and that do not exceed 160 acres may not be apportioned so as to be in the extraterritorial jurisdiction of more than one municipality unless the landowner gives written consent to that apportionment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.902. RESTRICTION AGAINST IMPOSING TAX IN EXTRATERRITORIAL JURISDICTION. The inclusion of an area in the extraterritorial jurisdiction of a municipality does not by itself authorize the municipality to impose a tax in the area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 42.9025. RESTRICTION ON IMPOSING FINE OR FEE IN CERTAIN AREAS IN EXTRATERRITORIAL JURISDICTION. (a) This section applies only to an area that is located in a municipality's extraterritorial jurisdiction and:

(1) that has been disannexed from the municipality under Subchapter G, Chapter 43; or

(2) for which the municipality has attempted and failed to obtain consent for annexation under Subchapter C-4 or C-5, Chapter 43.

(b) Notwithstanding any other law, a municipality may not impose under a municipal ordinance a fine or fee on a person on the basis of:

(1) an activity that occurs wholly in an area described by Subsection (a); or

(2) the management or ownership of property located wholly in an area described by Subsection (a).

(c) This section does not limit a municipality, including a municipally owned retail water, wastewater, or drainage utility, from imposing in an area described by Subsection (a) a fine or fee, including through the adoption and enforcement of rates, for water, sewer, drainage, or other related utility services.

(d) This section does not apply to development or redevelopment in an area in which an election was held under Section 43.0117.

Added by Acts 2021, 87th Leg., R.S., Ch. 386 (S.B. 1168), Sec. 1, eff. June 7, 2021.

Sec. 42.903. EXTRATERRITORIAL JURISDICTION OF CERTAIN TYPE B OR C GENERAL-LAW MUNICIPALITIES. (a) This section applies only to a Type B or C general-law municipality:

(1) that has more than 200 inhabitants;

(2) that is wholly surrounded, at the time of incorporation, by the extraterritorial jurisdiction of another municipality; and

(3) part of which was located, at any time before incorporation, in an area annexed for limited purposes by another municipality.

(b) The governing body of the municipality by resolution or ordinance may adopt an extraterritorial jurisdiction for all or part of the unincorporated area contiguous to the corporate boundaries of the municipality and located within one mile of those boundaries. The authority granted by this section is subject to the limitation provided by Section 26.178, Water Code.

(c) Within 90 days after the date the municipality adopts the resolution or ordinance, an owner of real property in the extraterritorial jurisdiction may petition the municipality to release the owner's property from the extraterritorial jurisdiction. On the presentation of the petition, the property:

(1) is automatically released from the extraterritorial jurisdiction of the municipality and becomes part of the extraterritorial jurisdiction or limited purpose area of the municipality whose jurisdiction surrounded, on May 31, 1989, the municipality from whose jurisdiction the property is released; and

(2) becomes subject to any existing zoning or other land use approval provisions that applied to the property before the property was included in the municipality's extraterritorial jurisdiction under Subsection (b).

(d) The municipality may exercise in its extraterritorial jurisdiction the powers granted under state law to other municipalities in their extraterritorial jurisdiction, including the power to ensure its water supply and to carry out other public purposes.

(e) To the extent of any conflict, this section controls over

other laws relating to the creation of extraterritorial jurisdiction.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.01(a), eff. Aug. 26, 1991.

Sec. 42.904. EXTRATERRITORIAL JURISDICTION AND VOTING RIGHTS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that has disannexed territory under Section 43.133 that it had previously annexed for limited purposes and that has extended rules to its extraterritorial jurisdiction under Section 212.003.

(b) The municipality shall allow all qualified voters residing in the municipality's extraterritorial jurisdiction to vote on any proposition that is submitted to the voters of the municipality and that involves:

(1) an adoption of or change to an ordinance or charter provision that would apply to the municipality's extraterritorial jurisdiction; or

(2) a nonbinding referendum that, if binding, would apply to the municipality's extraterritorial jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 172, Sec. 1, eff. May 17, 1993.

CHAPTER 43. MUNICIPAL ANNEXATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 43.001. DEFINITIONS. In this chapter:

(1) "Extraterritorial jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42.

(2) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

(3) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

(4) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

(5) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 1, eff.

December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Sec. 43.002. CONTINUATION OF LAND USE. (a) A municipality may not, after annexing an area, prohibit a person from:

(1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or

(2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:

(A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and

(B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

(b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

(c) This section does not prohibit a municipality from imposing:

(1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;

(2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;

(3) a regulation relating to preventing imminent destruction of property or injury to persons;

(4) a regulation relating to public nuisances;

(5) a regulation relating to flood control;

(6) a regulation relating to the storage and use of hazardous substances; or

(7) a regulation relating to the sale and use of fireworks.

(d) A regulation relating to the discharge of firearms or other weapons is subject to the restrictions in Section 229.002.

(e) Notwithstanding Subsection (c) and until the 20th

anniversary of the date of the annexation of an area that includes a permanent retail structure, a municipality may not prohibit a person from continuing to use the structure for the indoor seasonal sale of retail goods if the structure:

(1) is more than 5,000 square feet; and

(2) was authorized under the laws of this state to be used for the indoor seasonal sale of retail goods on the effective date of the annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 2, eff. Sept. 1, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 18 (S.B. 734), Sec. 3, eff. May 3, 2005.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 2, eff. December 1, 2017.

Sec. 43.003. AUTHORITY OF HOME-RULE MUNICIPALITY TO ANNEX AREA AND TAKE OTHER ACTIONS REGARDING BOUNDARIES. A home-rule municipality may take the following actions according to rules as may be provided by the charter of the municipality and not inconsistent with the requirements prescribed by this chapter:

(1) fix the boundaries of the municipality;

(2) extend the boundaries of the municipality and annex area adjacent to the municipality; and

(3) exchange area with other municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Transferred, redesignated and amended from Local Government Code, Section 43.021 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 3, eff. December 1, 2017.

Sec. 43.004. ANNEXATION BY DEFUNDING MUNICIPALITY PROHIBITED; EXCEPTION. (a) In this section, "defunding municipality" means a home-rule municipality that is considered to be a defunding municipality under Chapter 109.

(b) Except as provided by Subsection (c), a defunding municipality may not annex an area during the period beginning on the date that the criminal justice division of the governor's office issues the written determination that the municipality is a defunding

municipality and ending on the 10th anniversary of the date on which the criminal justice division of the governor's office issues a written determination in accordance with Section 109.005 finding that the defunding municipality has reversed the reduction described by Section 109.003(1).

(c) This section does not apply to a defunding municipality annexing all or part of an area under Section 43.0116 that was designated an industrial district under Section 42.044(b) or the subject of an agreement under Section 42.044(c) as of January 1, 2021.

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 2.01, eff. September 1, 2021.

Sec. 43.005. REQUIRED DISCLOSURE BEFORE ANNEXATION AGREEMENT. (a) At the time a municipality makes an offer to a landowner to enter into an agreement in which the landowner consents to annexation, the municipality must provide the landowner with the written disclosure described by Section 212.172(b-1).

(b) An annexation agreement for which a disclosure is not provided in accordance with Subsection (a) is void.

Added by Acts 2021, 87th Leg., R.S., Ch. 103 (S.B. 1338), Sec. 1, eff. September 1, 2021.
Redesignated from Local Government Code, Section 43.004 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(28), eff. September 1, 2023.

SUBCHAPTER A-1. GENERAL AUTHORITY TO ANNEX

Sec. 43.0115. AUTHORITY OF CERTAIN MUNICIPALITIES TO ANNEX ENCLAVES. (a) This section applies only to a municipality that:

(1) is wholly or partly located in a county in which a majority of the population of two or more municipalities, each with a population of 300,000 or more, are located; and

(2) proposes to annex an area that:

(A) is wholly surrounded by a municipality and within the municipality's extraterritorial jurisdiction; and

(B) has fewer than 100 dwelling units.

(b) Notwithstanding any other law, the governing body of a

municipality by ordinance may annex an area without the consent of any of the residents of, voters of, or owners of land in the area under the procedures prescribed by Subchapter C-1.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 4, eff. December 1, 2017.

Sec. 43.0116. AUTHORITY OF MUNICIPALITY TO ANNEX INDUSTRIAL DISTRICTS. (a) Notwithstanding any other law and subject to Subsection (b), a municipality may annex all or part of the area located in an industrial district designated by the governing body of the municipality under Section 42.044 under the procedures prescribed by Subchapter C-1.

(b) A municipality that proposes to annex an area located in an industrial district subject to a contract described by Section 42.044(c) may initiate the annexation only:

(1) on or after the date the contract expires, including any period renewing or extending the contract; or

(2) as provided by the contract.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 4, eff. December 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.02, eff. May 24, 2019.

Sec. 43.0117. AUTHORITY OF MUNICIPALITY TO ANNEX AREA NEAR MILITARY BASE. (a) In this section, "military base" means a presently functioning federally owned or operated military installation or facility.

(b) A municipality may annex for full or limited purposes, under the annexation provisions applicable to that municipality under this chapter, any part of the area located within five miles of the boundary of a military base in which an active training program is conducted. The annexation proposition shall be stated to allow the voters of the area to be annexed to choose between either annexation or providing the municipality with the authority to adopt and enforce an ordinance regulating the land use in the area in the manner recommended by the most recent joint land use study.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 4, eff. December 1, 2017.

Sec. 43.012. AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY TO ANNEX AREA IT OWNS. The governing body of a Type A general-law municipality by ordinance may annex area that the municipality owns under the procedures prescribed by Subchapter C-1. The ordinance must describe the area by metes and bounds and must be entered in the minutes of the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Transferred, redesignated and amended from Local Government Code, Section 43.026 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 5, eff. December 1, 2017.

Sec. 43.013. AUTHORITY OF MUNICIPALITY TO ANNEX NAVIGABLE STREAM. The governing body of a municipality by ordinance may annex any navigable stream adjacent to the municipality and within the municipality's extraterritorial jurisdiction under the procedures prescribed by Subchapter C-1.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Transferred, redesignated and amended from Local Government Code, Section 43.027 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 6, eff. December 1, 2017.

Sec. 43.014. AUTHORITY TO ANNEX LIMITED TO EXTRATERRITORIAL JURISDICTION. A municipality may annex area only in its extraterritorial jurisdiction unless the municipality owns the area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Transferred and redesignated from Local Government Code, Section 43.051 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 7, eff. December 1, 2017.

Sec. 43.015. AUTHORITY OF ADJACENT MUNICIPALITIES TO CHANGE BOUNDARIES BY AGREEMENT. Adjacent municipalities may make mutually

agreeable changes in their boundaries of areas that are less than 1,000 feet in width.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(c), eff. Aug. 28, 1989. Transferred and redesignated from Local Government Code, Section 43.031 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 8, eff. December 1, 2017.

Sec. 43.016. AUTHORITY OF MUNICIPALITY TO ANNEX AREA QUALIFIED FOR AGRICULTURAL OR WILDLIFE MANAGEMENT USE OR AS TIMBER LAND. (a) This section applies only to an area:

(1) eligible to be the subject of a development agreement under Subchapter G, Chapter 212; and

(2) appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter.

(b) A municipality may not annex an area to which this section applies unless:

(1) the municipality offers to make a development agreement with the landowner under Section 212.172 that would:

(A) guarantee the continuation of the extraterritorial status of the area; and

(B) authorize the enforcement of all regulations and planning authority of the municipality that do not interfere with the use of the area for agriculture, wildlife management, or timber; and

(2) the landowner declines to make the agreement described by Subdivision (1).

(c) For purposes of Section 43.003(2) or another law, including a municipal charter or ordinance, relating to municipal authority to annex an area adjacent to the municipality, an area adjacent or contiguous to an area that is the subject of a development agreement described by Subsection (b)(1) is considered adjacent or contiguous to the municipality.

(d) A provision of a development agreement described by Subsection (b)(1) that restricts or otherwise limits the annexation of all or part of the area that is the subject of the agreement is void if the landowner files any type of subdivision plat or related

development document for the area with a governmental entity that has jurisdiction over the area, regardless of how the area is appraised for ad valorem tax purposes.

(e) A development agreement described by Subsection (b)(1) is not a permit for purposes of Chapter 245.

Added by Acts 2007, 80th Leg., R.S., Ch. 225 (H.B. 1472), Sec. 1, eff. May 25, 2007.
Transferred, redesignated and amended from Local Government Code, Section 43.035 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 9, eff. December 1, 2017.

Sec. 43.017. PROHIBITION AGAINST ANNEXATION TO SURROUND MUNICIPALITY IN CERTAIN COUNTIES. A municipality with a population of more than 175,000 located in a county that contains an international border and borders the Gulf of Mexico may not annex an area that would cause another municipality to be entirely surrounded by the corporate limits or extraterritorial jurisdiction of the annexing municipality.

Added by Acts 2015, 84th Leg., R.S., Ch. 941 (H.B. 4059), Sec. 3, eff. June 18, 2015.
Transferred and redesignated from Local Government Code, Section 43.037 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 10, eff. December 1, 2017.

SUBCHAPTER C. LIMITATIONS AND REQUIREMENTS REGARDING ANNEXATIONS EXEMPTED FROM CONSENT ANNEXATION PROCEDURES

Sec. 43.0505. APPLICABILITY. (a) This subchapter applies only to an annexation under Subchapter C-1.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(4), eff. May 24, 2019.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 14, eff. December 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.04, eff.

May 24, 2019.

Without reference to the amendment of this section, this section was repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Sec. 43.052. MUNICIPAL ANNEXATION PLAN REQUIRED.

(f-1) In addition to the notice provided under Subsection (f), a home-rule municipality, before the 90th day after the date the municipality adopts or amends an annexation plan under this section, shall give written notice as provided by this subsection to each property owner in any area that would be newly included in the municipality's extraterritorial jurisdiction as a result of the proposed annexation. For purposes of this subsection, a property owner is the owner as indicated by the appraisal records furnished by the appraisal district for each county in which the area that would be newly included in the municipality's extraterritorial jurisdiction is located. The notice must include:

(1) a description of the area that has been included in the municipality's annexation plan;

(2) a statement that the completed annexation of that area will expand the municipality's extraterritorial jurisdiction to include all or part of the property owner's property;

(3) a statement of the purpose of extraterritorial jurisdiction designation as provided by Section 42.001; and

(4) a brief description of each municipal ordinance that would be applicable, as authorized by Section 212.003, in the area that would be newly included in the municipality's extraterritorial jurisdiction.

(f-2) In addition to the notice requirements under Subsection (f), a home-rule municipality, before the 90th day after the date the municipality adopts or amends an annexation plan under this section, shall create, or contract for the creation of, and make publicly available a digital map that identifies the area proposed for annexation and any area that would be newly included in the municipality's extraterritorial jurisdiction as a result of the proposed annexation. A digital map required under this subsection must be made available without charge and in a format widely used by common geographic information system software or in any other widely

used electronic format if the municipality does not have common geographic information system software. If the municipality maintains an Internet website, the municipality shall make the digital map available on the municipality's website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1167, Sec. 4, eff. Sept. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1185 (H.B. 610), Sec. 1, eff. June 15, 2007.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 15, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1217 (S.B. 1303), Sec. 2, eff. September 1, 2019.

Sec. 43.054. WIDTH REQUIREMENTS. (a) A municipality may not annex a publicly or privately owned area, including a strip of area following the course of a road, highway, river, stream, or creek, unless the width of the area at its narrowest point is at least 1,000 feet.

(b) The prohibition established by Subsection (a) does not apply if:

(1) the boundaries of the municipality are contiguous to the area on at least two sides;

(2) the annexation is initiated on the written petition of the owners or of a majority of the qualified voters of the area; or

(3) the area abuts or is contiguous to another jurisdictional boundary.

(c) Notwithstanding Subsection (a), a municipality with a population of 21,000 or more located in a county with a population of 100,000 or more may annex a publicly owned strip or similar area following the course of a road or highway for the purpose of annexing territory contiguous to the strip or area if the territory contiguous to the strip or area was formerly used or was to be used in connection with or by a superconducting super collider high-energy research facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(d), eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 1167, Sec. 5, eff. Sept. 1, 1999; Acts 2003,

78th Leg., ch. 768, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 16, eff. December 1, 2017.

Sec. 43.0545. ANNEXATION OF CERTAIN ADJACENT AREAS. (a) A municipality may not annex an area that is located in the extraterritorial jurisdiction of the municipality only because the area is contiguous to municipal territory that is less than 1,000 feet in width at its narrowest point.

(b) A municipality may not annex an area that is located in the extraterritorial jurisdiction of the municipality only because the area is contiguous to municipal territory that:

(1) was annexed before September 1, 1999; and

(2) was in the extraterritorial jurisdiction of the municipality at the time of annexation only because the territory was contiguous to municipal territory that was less than 1,000 feet in width at its narrowest point.

(c) Subsections (a) and (b) do not apply to an area:

(1) completely surrounded by incorporated territory of one or more municipalities;

(2) for which the owners of the area have requested annexation by the municipality;

(3) that is owned by the municipality; or

(4) that is the subject of an industrial district contract under Section 42.044.

(d) Subsection (b) does not apply if the minimum width of the narrow territory described by Subsection (b)(2), following subsequent annexation, is no longer less than 1,000 feet in width at its narrowest point.

(e) For purposes of this section, roads, highways, rivers, lakes, or other bodies of water are not included in computing the 1,000-foot distance unless the area being annexed includes land in addition to a road, highway, river, lake, or other body of water.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 6, eff. Sept. 1, 1999.

Sec. 43.055. MAXIMUM AMOUNT OF ANNEXATION EACH YEAR. (a) In a

calendar year, a municipality may not annex a total area greater than 10 percent of the incorporated area of the municipality as of January 1 of that year, plus any amount of area carried over to that year under Subsection (b). In determining the total area annexed in a calendar year, an area annexed for limited purposes is included, but an annexed area is not included if it is:

(1) annexed at the request of a majority of the qualified voters of the area and the owners of at least 50 percent of the land in the area;

(2) owned by the municipality, a county, the state, or the federal government and used for a public purpose;

(3) annexed at the request of at least a majority of the qualified voters of the area; or

(4) annexed at the request of the owners of the area.

(b) If a municipality fails to annex in a calendar year the entire 10 percent amount permitted under Subsection (a), the municipality may carry over the unused allocation for use in subsequent calendar years.

(c) A municipality carrying over an allocation may not annex in a calendar year a total area greater than 30 percent of the incorporated area of the municipality as of January 1 of that year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(e), eff. Aug. 28, 1989.

Sec. 43.056. PROVISION OF SERVICES TO ANNEXED AREA. (a) This section applies to a service plan under Section 43.065.

(b) The service plan, which must be completed before the annexation, must include a program under which the municipality will provide full municipal services in the annexed area no later than 2-1/2 years after the effective date of the annexation, in accordance with Subsection (e), unless certain services cannot reasonably be provided within that period and the municipality proposes a schedule for providing those services, and must include a list of all services required by this section to be provided under the plan. If the municipality proposes a schedule to extend the period for providing certain services, the schedule must provide for the provision of full municipal services no later than 4-1/2 years after the effective date of the annexation. However, under the program if the municipality

provides any of the following services within the corporate boundaries of the municipality before annexation, the municipality must provide those services in the area proposed for annexation on the effective date of the annexation of the area:

(1) police protection;

(2) fire protection;

(3) emergency medical services;

(4) solid waste collection, except as provided by Subsection (o);

(5) operation and maintenance of water and wastewater facilities in the annexed area that are not within the service area of another water or wastewater utility;

(6) operation and maintenance of roads and streets, including road and street lighting;

(7) operation and maintenance of parks, playgrounds, and swimming pools; and

(8) operation and maintenance of any other publicly owned facility, building, or service.

(c) For purposes of this section, "full municipal services" means services provided by the annexing municipality within its full-purpose boundaries, including water and wastewater services and excluding gas or electrical service.

(d) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(a), eff. December 1, 2017.

(e) The service plan must also include a program under which the municipality will initiate after the effective date of the annexation the acquisition or construction of capital improvements necessary for providing municipal services adequate to serve the area. The construction shall be substantially completed within the period provided in the service plan. The service plan may be amended to extend the period for construction if the construction is proceeding with all deliberate speed. The acquisition or construction of the facilities shall be accomplished by purchase, lease, or other contract or by the municipality succeeding to the powers, duties, assets, and obligations of a conservation and reclamation district as authorized or required by law. The construction of the facilities shall be accomplished in a continuous process and shall be completed as soon as reasonably possible, consistent with generally accepted local engineering and architectural standards and practices. However, the municipality does not violate this subsection if the

construction process is interrupted for any reason by circumstances beyond the direct control of the municipality. The requirement that construction of capital improvements must be substantially completed within the period provided in the service plan does not apply to a development project or proposed development project within an annexed area if the annexation of the area was initiated by petition or request of the owners of land in the annexed area and the municipality and the landowners have subsequently agreed in writing that the development project within that area, because of its size or projected manner of development by the developer, is not reasonably expected to be completed within that period.

(f) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner;

(3) provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the corporate boundaries of the municipality before annexation;

(4) provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the area before annexation; or

(5) cause a reduction in fire and police protection and emergency medical services within the area to be annexed below that of areas within the corporate boundaries of the municipality with similar topography, land use, and population density.

(g) If the annexed area had a lower level of services, infrastructure, and infrastructure maintenance than the level of services, infrastructure, and infrastructure maintenance provided within the corporate boundaries of the municipality before annexation, a service plan must provide the annexed area with a level of services, infrastructure, and infrastructure maintenance that is comparable to the level of services, infrastructure, and infrastructure maintenance available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the area.

If the annexed area had a level of services, infrastructure, and infrastructure maintenance equal to the level of services, infrastructure, and infrastructure maintenance provided within the corporate boundaries of the municipality before annexation, a service plan must maintain that same level of services, infrastructure, and infrastructure maintenance. Except as provided by this subsection, if the annexed area had a level of services superior to the level of services provided within the corporate boundaries of the municipality before annexation, a service plan must provide the annexed area with a level of services that is comparable to the level of services available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the area. If the annexed area had a level of services for operating and maintaining the infrastructure of the area, including the facilities described by Subsections (b)(5)-(8), superior to the level of services provided within the corporate boundaries of the municipality before annexation, a service plan must provide for the operation and maintenance of the infrastructure of the annexed area at a level of services that is equal or superior to that level of services.

(h) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(a), eff. December 1, 2017.

(i) If only a part of the area to be annexed is actually annexed, the governing body shall direct the department to prepare a revised service plan for that part.

(j) The proposed service plan must be made available for public inspection and explained to the inhabitants of the area at the public hearings held under Section 43.063. The plan may be amended through negotiation at the hearings, but the provision of any service may not be deleted. On completion of the public hearings, the service plan shall be attached to the ordinance annexing the area and approved as part of the ordinance.

(k) On approval by the governing body, the service plan is a contractual obligation that is not subject to amendment or repeal except that if the governing body determines at the public hearings required by this subsection that changed conditions or subsequent occurrences make the service plan unworkable or obsolete, the governing body may amend the service plan to conform to the changed conditions or subsequent occurrences. An amended service plan must provide for services that are comparable to or better than those

established in the service plan before amendment. Before any amendment is adopted, the governing body must provide an opportunity for interested persons to be heard at public hearings called and held in the manner provided by Section 43.063.

(l) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing or owning land in an annexed area may enforce a service plan by applying for a writ of mandamus not later than the second anniversary of the date the person knew or should have known that the municipality was not complying with the service plan. If a writ of mandamus is applied for, the municipality has the burden of proving that the services have been provided in accordance with the service plan in question. If a court issues a writ under this subsection, the court:

(1) must provide the municipality the option of disannexing the area within a reasonable period specified by the court;

(2) may require the municipality to comply with the service plan in question before a reasonable date specified by the court if the municipality does not disannex the area within the period prescribed by the court under Subdivision (1);

(3) may require the municipality to refund to the landowners of the annexed area money collected by the municipality from those landowners for services to the area that were not provided;

(4) may assess a civil penalty against the municipality, to be paid to the state in an amount as justice may require, for the period in which the municipality is not in compliance with the service plan;

(5) may require the parties to participate in mediation; and

(6) may require the municipality to pay the person's costs and reasonable attorney's fees in bringing the action for the writ.

(m) This section does not require that a uniform level of full municipal services be provided to each area of the municipality if different characteristics of topography, land use, and population density constitute a sufficient basis for providing different levels of service. Any disputes regarding the level of services provided under this subsection are resolved in the same manner provided by Subsection (l). Nothing in this subsection modifies the requirement under Subsection (g) for a service plan to provide a level of

services in an annexed area that is equal or superior to the level of services provided within the corporate boundaries of the municipality before annexation. To the extent of any conflict between this subsection and Subsection (g), Subsection (g) prevails.

(n) Before the second anniversary of the date an area is included within the corporate boundaries of a municipality by annexation, the municipality may not:

(1) prohibit the collection of solid waste in the area by a privately owned solid waste management service provider; or

(2) offer solid waste management services in the area unless a privately owned solid waste management service provider is unavailable.

(o) A municipality is not required to provide solid waste collection services under Subsection (b) to a person who continues to use the services of a privately owned solid waste management service provider as provided by Subsection (n).

(p) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(b), eff. December 1, 2017.

(q) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(f), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 822, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 4.011, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 969, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1062, Sec. 1, eff. June 17, 1995; Acts 1999, 76th Leg., ch. 1167, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1185 (H.B. 610), Sec. 2, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1363 (S.B. 1596), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 952 (S.B. 1878), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 17, eff. December 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(a), eff. December 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(b), eff.

December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(7), eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.05, eff. May 24, 2019.

Without reference to the amendment of this section, this section was repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Sec. 43.0561. ANNEXATION HEARING REQUIREMENTS.

(c) The municipality must:

(1) post notice of the hearings on the municipality's Internet website if the municipality has an Internet website; and

(2) publish notice of the hearings in a newspaper of general circulation:

(A) in the municipality;

(B) in the area proposed for annexation; and

(C) if the municipality is a home-rule municipality, in any area that would be newly included in the municipality's extraterritorial jurisdiction by the expansion of the municipality's extraterritorial jurisdiction resulting from the proposed annexation.

(d) The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The notice for each hearing must be posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing.

(e) This subsection applies only to a home-rule municipality. If applicable, the notice for each hearing must include:

(1) a statement that the completed annexation of the area will expand the municipality's extraterritorial jurisdiction;

(2) a description of the area that would be newly included in the municipality's extraterritorial jurisdiction;

(3) a statement of the purpose of extraterritorial jurisdiction designation as provided by Section 42.001; and

(4) a brief description of each municipal ordinance that would be applicable, as authorized by Section 212.003, in the area that would be newly included in the municipality's extraterritorial

jurisdiction.

(f) In addition to the notice required by Subsection (c), the municipality must give notice by certified mail to:

(1) each public entity, as defined by Section 43.053, and utility service provider that provides services in the area proposed for annexation; and

(2) each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 8, eff. Sept. 1, 1999. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1217 (S.B. 1303), Sec. 3, eff. September 1, 2019.

Sec. 43.0565. ACCESS TO SERVICES BY CERTAIN MUNICIPALITIES IN ANNEXED AREA. (a) A municipality with a population of 350,000 or less shall provide access to services provided to an annexed area under a service plan described by Section 43.056 that is identical or substantially similar to access to those services in the municipality.

(b) A person residing in an annexed area subject to a service plan may apply for a writ of mandamus against a municipality that fails to provide access to services in accordance with Subsection (a). In the action for the writ:

(1) the court may order the parties to participate in mediation;

(2) the municipality has the burden of proving that the municipality complied with Subsection (a);

(3) the person may provide evidence that the costs for the person to access the services are disproportionate to the costs incurred by a municipal resident to access those services; and

(4) if the person prevails:

(A) the municipality shall:

(i) disannex the property that is the subject of the suit within a reasonable period specified by the court; or

(ii) comply with Subsection (a); and

(B) the court shall award the person's attorney's fees and costs incurred in bringing the action for the writ.

(c) A municipality's governmental immunity to suit and from liability is waived and abolished to the extent of liability created under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 429 (S.B. 1024), Sec. 1, eff. September 1, 2019.

Sec. 43.057. ANNEXATION THAT SURROUNDS AREA: FINDINGS REQUIRED. If a proposed annexation would cause an area to be entirely surrounded by the annexing municipality but would not include the area within the municipality, the governing body of the municipality must find, before completing the annexation, that surrounding the area is in the public interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C-1. ANNEXATION PROCEDURE FOR AREAS EXEMPTED FROM CONSENT ANNEXATION PROCEDURES

Sec. 43.061. APPLICABILITY. (a) Unless otherwise specifically provided by this chapter or another law, this subchapter applies only to an annexation under:

(1) Section 43.0115 (Enclave);
(2) Section 43.0116 (Industrial District);
(3) Section 43.012 (Area Owned by Type-A Municipality);
(4) Section 43.013 (Navigable Stream);
(5) Section 43.0751(h) (Strategic Partnership);
(6) Section 43.101 (Municipally Owned Reservoir);
(7) Section 43.102 (Municipally Owned Airport); and
(8) Section 43.1055 (Road and Right-of-Way).

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(12), eff. May 24, 2019.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999. Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 21, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(12), eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.07, eff.

May 24, 2019.

Sec. 43.062. PROCEDURES APPLICABLE. (a) Sections 43.054, 43.0545, 43.055, and 43.057 apply to the annexation of an area to which this subchapter applies.

(b) This subsection applies only to an area that contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract. Before the 30th day before the date of the first hearing required under Section 43.063, a municipality shall give written notice of its intent to annex the area to:

(1) each property owner in an area proposed for annexation, as indicated by the appraisal records furnished by the appraisal district for each county in which the area is located;

(2) each public entity or private entity that provides services in the area proposed for annexation, including each:

(A) municipality, county, fire protection service provider, including a volunteer fire department, and emergency medical services provider, including a volunteer emergency medical services provider; and

(B) municipal utility district, water control and improvement district, or other district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution; and

(3) each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 22, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.08, eff. May 24, 2019.

Sec. 43.063. ANNEXATION HEARING REQUIREMENTS. (a) Before a municipality may institute annexation proceedings, the governing body of the municipality must conduct two public hearings at which persons interested in the annexation are given the opportunity to be heard.

The hearings must be conducted on or after the 40th day but before the 20th day before the date of the institution of the proceedings.

(b) At least one of the hearings must be held in the area proposed for annexation if a suitable site is reasonably available and more than 10 percent of the adults who are permanent residents of the area file a written protest of the annexation with the secretary of the municipality within 10 days after the date of the publication of the notice required by this section. The protest must state the name, address, and age of each protester who signs.

(c) The municipality must:

(1) post notice of the hearings on the municipality's Internet website if the municipality has an Internet website; and

(2) publish notice of the hearings in a newspaper of general circulation:

(A) in the municipality;

(B) in the area proposed for annexation; and

(C) if the municipality is a home-rule municipality, in any area that would be newly included in the municipality's extraterritorial jurisdiction by the expansion of the municipality's extraterritorial jurisdiction resulting from the proposed annexation.

(d) The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The notice for each hearing must be posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing.

(e) This subsection applies only to a home-rule municipality. If applicable, the notice for each hearing must include:

(1) a statement that the completed annexation of the area will expand the municipality's extraterritorial jurisdiction;

(2) a description of the area that would be newly included in the municipality's extraterritorial jurisdiction;

(3) a statement of the purpose of extraterritorial jurisdiction designation as provided by Section 42.001; and

(4) a brief description of each municipal ordinance that would be applicable, as authorized by Section 212.003, in the area that would be newly included in the municipality's extraterritorial jurisdiction.

(f) In addition to the notice required by Subsection (c), the municipality must give notice by certified mail to each railroad

company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1217 (S.B. 1303), Sec. 4, eff. September 1, 2019.

Sec. 43.0635. MAP REQUIREMENT FOR PROPOSED ANNEXATION. In addition to the notice requirements under Section 43.063, a home-rule municipality, before the municipality may institute annexation proceedings, shall create, or contract for the creation of, and make publicly available a digital map that identifies the area proposed for annexation and any area that would be newly included in the municipality's extraterritorial jurisdiction as a result of the proposed annexation. A digital map required under this section must be made available without charge and in a format widely used by common geographic information system software or in any other widely used electronic format if the municipality does not have common geographic information system software. If the municipality maintains an Internet website, the municipality shall make the digital map available on the municipality's website.

Added by Acts 2019, 86th Leg., R.S., Ch. 1217 (S.B. 1303), Sec. 5, eff. September 1, 2019.

Sec. 43.064. PERIOD FOR COMPLETION OF ANNEXATION. The annexation of an area must be completed within 90 days after the date the governing body institutes the annexation proceedings or those proceedings are void. Any period during which the municipality is restrained or enjoined by a court from annexing the area is not included in computing the 90-day period.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.
Amended by:
Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 23, eff. December 1, 2017.

Sec. 43.065. PROVISION OF SERVICES TO ANNEXED AREA. (a) Before the publication of the notice of the first hearing required under Section 43.063, the governing body of the municipality proposing the annexation shall direct its planning department or other appropriate municipal department to prepare a service plan that provides for the extension of full municipal services to the area to be annexed. The municipality shall provide the services by any of the methods by which it extends the services to any other area of the municipality.

(b) Sections 43.056(b)-(o) apply to the annexation of an area to which this subchapter applies.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

SUBCHAPTER C-2. GENERAL ANNEXATION AUTHORITY AND PROCEDURES REGARDING CONSENT ANNEXATIONS

Sec. 43.0661. PROVISION OF CERTAIN SERVICES TO ANNEXED AREA. (a) This section applies only to a municipality that includes solid waste collection services in the list of services that will be provided in the area proposed for annexation on or before the second anniversary of the effective date of the annexation of the area under a written agreement under Section 43.0672 or a resolution under Section 43.0682 or 43.0692.

(b) A municipality is not required to provide solid waste collection services to a person who continues to use the services of a privately owned solid waste management service provider as provided by Subsection (c).

(c) Before the second anniversary of the effective date of the annexation of an area, a municipality may not:

(1) prohibit the collection of solid waste in the area by a privately owned solid waste management service provider; or

(2) offer solid waste management services in the area unless a privately owned solid waste management service provider is unavailable.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 24, eff. December 1, 2017.

Sec. 43.0662. AUTHORITY OF MUNICIPALITY WITH POPULATION OF

74,000 TO 99,700 IN URBAN COUNTY TO ANNEX SMALL, SURROUNDED GENERAL-LAW MUNICIPALITY. (a) Notwithstanding Subchapter C-4 or C-5, a municipality that has a population of 74,000 to 99,700, that is located wholly or partly in a county with a population of more than 1.8 million, and that completely surrounds and is contiguous to a general-law municipality with a population of less than 600, may annex the general-law municipality as provided by this section.

(b) The governing body of the smaller municipality may adopt an ordinance ordering an election on the question of consenting to the annexation of the smaller municipality by the larger municipality. The governing body of the smaller municipality shall adopt the ordinance if it receives a petition to do so signed by a number of qualified voters of the municipality equal to at least 10 percent of the number of voters of the municipality who voted in the most recent general election. If the ordinance ordering the election is to be adopted as a result of a petition, the ordinance shall be adopted within 30 days after the date the petition is received.

(c) The ordinance ordering the election must provide for the submission of the question at an election to be held on the first uniform election date prescribed by Chapter 41, Election Code, that occurs after the 30th day after the date the ordinance is adopted and that affords enough time to hold the election in the manner required by law.

(d) Within 10 days after the date on which the election is held, the governing body of the smaller municipality shall canvass the election returns and by resolution shall declare the results of the election. If a majority of the votes received is in favor of the annexation, the secretary of the smaller municipality or other appropriate municipal official shall forward by certified mail to the secretary of the larger municipality a certified copy of the resolution.

(e) The larger municipality, within 90 days after the date the resolution is received, must complete the annexation by ordinance in accordance with its municipal charter or the general laws of the state. If the annexation is not completed within the 90-day period, any annexation proceeding is void and the larger municipality may not annex the smaller municipality under this section. However, the failure to complete the annexation as provided by this subsection does not prevent the smaller municipality from holding a new election on the question to enable the larger municipality to annex the

smaller municipality as provided by this section.

(f) If the larger municipality completes the annexation within the prescribed period, the incorporation of the smaller municipality is abolished. The records, public property, public buildings, money on hand, credit accounts, and other assets of the smaller municipality become the property of the larger municipality and shall be turned over to the officers of that municipality. The offices in the smaller municipality are abolished and the persons holding those offices are not entitled to further remuneration or compensation. All outstanding liabilities of the smaller municipality are assumed by the larger municipality.

(g) In the annexation ordinance, the larger municipality shall adopt, for application in the area zoned by the smaller municipality, the identical comprehensive zoning ordinance that the smaller municipality applied to the area at the time of the election. Any attempted annexation of the smaller municipality that does not include the adoption of that comprehensive zoning ordinance is void. That comprehensive zoning ordinance may not be repealed or amended for a period of 10 years unless the written consent of the landowners who own at least two-thirds of the surface land of the annexed smaller municipality is obtained.

(h) If the annexed smaller municipality has on hand any bond funds for public improvements that are not appropriated or contracted for, the funds shall be kept in a separate special fund to be used only for public improvements in the area for which the bonds were voted.

(i) On the annexation, all claims, fines, debts, or taxes due and payable to the smaller municipality become due and payable to the larger municipality and shall be collected by it. If taxes for the year in which the annexation occurs have been assessed in the smaller municipality before the annexation, the amounts assessed remain as the amounts due and payable from the inhabitants of the smaller municipality for that year.

(j) This section does not affect a charter provision of a home-rule municipality. This section grants additional power to the municipality and is cumulative of the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 80, eff. Sept. 1, 1991. Transferred, redesignated and amended from Local Government Code,

Section 43.030 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 25, eff. December 1, 2017.

Sec. 43.0663. EFFECT ON OTHER LAW. Subchapters C-3 through C-5 do not affect the procedures described by Section 397.005 or 397.006 applicable to a defense community as defined by Section 397.001.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 24, eff. December 1, 2017.

SUBCHAPTER C-3. ANNEXATION OF AREA ON REQUEST OF OWNERS

Sec. 43.0671. AUTHORITY TO ANNEX AREA ON REQUEST OF OWNERS. Notwithstanding Subchapter C-4 or C-5, a municipality may annex an area if each owner of land in the area requests the annexation.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0672. WRITTEN AGREEMENT REGARDING SERVICES. (a) The governing body of the municipality that elects to annex an area under this subchapter must first negotiate and enter into a written agreement with the owners of land in the area for the provision of services in the area.

(b) The agreement must include:

(1) a list of each service the municipality will provide on the effective date of the annexation; and

(2) a schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation.

(c) The municipality is not required to provide a service that is not included in the agreement.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0673. PUBLIC HEARING. (a) Before a municipality may adopt an ordinance annexing an area under this subchapter, the

governing body of the municipality must conduct one public hearing.

(c) During the public hearing, the governing body:

(1) must provide persons interested in the annexation the opportunity to be heard; and

(2) may adopt an ordinance annexing the area.

(d) The municipality must post notice of the hearing on the municipality's Internet website if the municipality has an Internet website and publish notice of the hearing in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice for the hearing must be:

(1) published at least once on or after the 20th day but before the 10th day before the date of the hearing; and

(2) posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 3.01, eff. May 24, 2019.

SUBCHAPTER C-4. ANNEXATION OF AREAS WITH POPULATION OF LESS THAN 200 BY PETITION

Sec. 43.0681. AUTHORITY TO ANNEX. A municipality may annex an area with a population of less than 200 only if the following conditions are met, as applicable:

(1) the municipality obtains consent to annex the area through a petition signed by more than 50 percent of the registered voters of the area; and

(2) if the registered voters of the area do not own more than 50 percent of the land in the area, the petition described by Subdivision (1) is signed by more than 50 percent of the owners of land in the area.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0682. RESOLUTION. The governing body of the

municipality that proposes to annex an area under this subchapter must adopt a resolution that includes:

(1) a statement of the municipality's intent to annex the area;

(2) a detailed description and map of the area;

(3) a description of each service to be provided by the municipality in the area on or after the effective date of the annexation, including, as applicable:

(A) police protection;

(B) fire protection;

(C) emergency medical services;

(D) solid waste collection;

(E) operation and maintenance of water and wastewater facilities in the annexed area;

(F) operation and maintenance of roads and streets, including road and street lighting;

(G) operation and maintenance of parks, playgrounds, and swimming pools; and

(H) operation and maintenance of any other publicly owned facility, building, or service;

(4) a list of each service the municipality will provide on the effective date of the annexation; and

(5) a schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0683. NOTICE OF PROPOSED ANNEXATION. Not later than the seventh day after the date the governing body of the municipality adopts the resolution under Section 43.0682, the municipality must mail to each resident and property owner in the area proposed to be annexed notification of the proposed annexation that includes:

(1) notice of the public hearing required by Section 43.0684;

(2) an explanation of the 180-day petition period described by Section 43.0685; and

(3) a description, list, and schedule of services to be

provided by the municipality in the area on or after annexation as provided by Section 43.0682.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0684. PUBLIC HEARING. The governing body of a municipality must conduct at least one public hearing not earlier than the 21st day and not later than the 30th day after the date the governing body adopts the resolution under Section 43.0682.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0685. PETITION. (a) Except as provided by Subsection (a-1), the petition required by Section 43.0681 may be signed only by a registered voter of the area proposed to be annexed.

(a-1) If the registered voters of the area proposed to be annexed do not own more than 50 percent of the land in the area, the petition required by Section 43.0681 may also be signed by the owners of land in the area that are not registered voters. Notwithstanding Subsection (e), the municipality may provide for an owner of land in the area that is not a resident of the area to sign the petition electronically.

(a-2) The petition must clearly indicate that the person is signing as a registered voter of the area, an owner of land in the area, or both.

(b) The municipality may collect signatures on the petition only during the period beginning on the 31st day after the date the governing body of the municipality adopts the resolution under Section 43.0682 and ending on the 180th day after the date the resolution is adopted.

(c) The petition must clearly state that a person signing the petition is consenting to the proposed annexation.

(d) The petition must include a map of and describe the area proposed to be annexed.

(e) Signatures collected on the petition must be in writing.

(f) Chapter 277, Election Code, applies to a petition under this section.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0686. RESULTS OF PETITION. (a) When the petition period prescribed by Section 43.0685 ends, the petition shall be verified by the municipal secretary or other person responsible for verifying signatures. The municipality must notify the residents and property owners of the area proposed to be annexed of the results of the petition.

(b) If the municipality does not obtain the number of signatures on the petition required to annex the area, the municipality may not annex the area and may not adopt another resolution under Section 43.0682 to annex the area until the first anniversary of the date the petition period ended.

(c) If the municipality obtains the number of signatures on the petition required to annex the area, the municipality may annex the area after:

(1) providing notice under Subsection (a);

(2) holding a public hearing at which members of the public are given an opportunity to be heard; and

(3) holding a final public hearing not earlier than the 10th day after the date of the public hearing under Subdivision (2) at which the ordinance annexing the area may be adopted.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0687. VOTER APPROVAL BY MUNICIPAL RESIDENTS ON PETITION. If a petition protesting the annexation of an area under this subchapter is signed by a number of registered voters of the municipality proposing the annexation equal to at least 50 percent of the number of voters who voted in the most recent municipal election and is received by the secretary of the municipality before the date the petition period prescribed by Section 43.0685 ends, the municipality may not complete the annexation of the area without approval of a majority of the voters of the municipality voting at an election called and held for that purpose.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff.

December 1, 2017.

Sec. 43.0688. RETALIATION FOR ANNEXATION DISAPPROVAL PROHIBITED. (a) The disapproval of the proposed annexation of an area under this subchapter does not affect any existing legal obligation of the municipality proposing the annexation to continue to provide governmental services in the area, including water or wastewater services, regardless of whether the municipality holds a certificate of convenience and necessity to serve the area.

(b) The municipality may not initiate a rate proceeding solely because of the disapproval of a proposed annexation of an area under this subchapter.

(c) A municipality that makes a wholesale sale of water to a special district operating under Chapter 36 or Title 4, Water Code, may not charge rates for the water that are higher than rates charged in other similarly situated areas solely because the district is wholly or partly located in an area that disapproved of a proposed annexation under this subchapter.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 922 (H.B. 4257), Sec. 1, eff. June 10, 2019.

SUBCHAPTER C-5. ANNEXATION OF AREAS WITH POPULATION OF AT LEAST 200 BY ELECTION

Sec. 43.0691. AUTHORITY TO ANNEX. A municipality may annex an area with a population of 200 or more only if the following conditions are met, as applicable:

(1) the municipality holds an election in the area proposed to be annexed at which the qualified voters of the area may vote on the question of the annexation and a majority of the votes received at the election approve the annexation; and

(2) if the registered voters of the area do not own more than 50 percent of the land in the area, the municipality obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0692. RESOLUTION. The governing body of the municipality that proposes to annex an area under this subchapter must adopt a resolution that includes:

(1) a statement of the municipality's intent to annex the area;

(2) a detailed description and map of the area;

(3) a description of each service to be provided by the municipality in the area on or after the effective date of the annexation, including, as applicable:

(A) police protection;

(B) fire protection;

(C) emergency medical services;

(D) solid waste collection;

(E) operation and maintenance of water and wastewater facilities in the annexed area;

(F) operation and maintenance of roads and streets, including road and street lighting;

(G) operation and maintenance of parks, playgrounds, and swimming pools; and

(H) operation and maintenance of any other publicly owned facility, building, or service;

(4) a list of each service the municipality will provide on the effective date of the annexation; and

(5) a schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0693. NOTICE OF PROPOSED ANNEXATION. Not later than the seventh day after the date the governing body of the municipality adopts the resolution under Section 43.0692, the municipality must mail to each property owner in the area proposed to be annexed notification of the proposed annexation that includes:

(1) notice of the public hearings required by Section 43.0694;

(2) notice that an election on the question of annexing the area will be held; and

(3) a description, list, and schedule of services to be provided by the municipality in the area on or after annexation as provided by Section 43.0692.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0694. PUBLIC HEARINGS. (a) The governing body of a municipality must conduct an initial public hearing not earlier than the 21st day and not later than the 30th day after the date the governing body adopts the resolution under Section 43.0692.

(b) The governing body must conduct at least one additional public hearing not earlier than the 31st day and not later than the 90th day after the date the governing body adopts a resolution under Section 43.0692.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0695. PROPERTY OWNER CONSENT REQUIRED FOR CERTAIN AREAS. (a) If the registered voters in the area proposed to be annexed do not own more than 50 percent of the land in the area, the municipality must obtain consent to the annexation through a petition signed by more than 50 percent of the owners of land in the area in addition to the election required by this subchapter.

(b) The municipality must obtain the consent required by this section through the petition process prescribed by Sections 43.0685(b)-(e), and the petition must be verified in the manner provided by Section 43.0686(a).

(c) Notwithstanding Section 43.0685(e), the municipality may provide for an owner of land in the area that is not a resident of the area to sign the petition electronically.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0696. ELECTION. (a) A municipality shall order an election on the question of annexing an area to be held on the first uniform election date that falls on or after:

(1) the 90th day after the date the governing body of the municipality adopts the resolution under Section 43.0692; or

(2) if the consent of the owners of land in the area is required under Section 43.0695, the 78th day after the date the petition period to obtain that consent ends.

(b) An election under this section shall be held in the same manner as general elections of the municipality. The municipality shall pay for the costs of holding the election.

(c) A municipality that holds an election under this section may not hold another election on the question of annexation before the corresponding uniform election date of the following year.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0697. RESULTS OF ELECTION AND PETITION. (a) Following an election held under this subchapter, the municipality must notify the residents of the area proposed to be annexed of the results of the election and, if applicable, of the petition required by Section 43.0695.

(b) If at the election held under this subchapter a majority of qualified voters do not approve the proposed annexation, or if the municipality is required to petition owners of land in the area under Section 43.0695 and does not obtain the required number of signatures, the municipality may not annex the area and may not adopt another resolution under Section 43.0692 to annex the area until the first anniversary of the date of the adoption of the resolution.

(c) If at the election held under this subchapter a majority of qualified voters approve the proposed annexation, and if the municipality, as applicable, obtains the required number of petition signatures under Section 43.0695, the municipality may annex the area after:

(1) providing notice under Subsection (a);

(2) holding a public hearing at which members of the public

are given an opportunity to be heard; and

(3) holding a final public hearing not earlier than the 10th day after the date of the public hearing under Subdivision (2) at which the ordinance annexing the area may be adopted.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0698. VOTER APPROVAL BY MUNICIPAL RESIDENTS ON PETITION. If a petition protesting the annexation of an area under this subchapter is signed by a number of registered voters of the municipality proposing the annexation equal to at least 50 percent of the number of voters who voted in the most recent municipal election and is received by the secretary of the municipality before the date the election required by this subchapter is held, the municipality may not complete the annexation of the area without approval of a majority of the voters of the municipality voting at a separate election called and held for that purpose.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0699. RETALIATION FOR ANNEXATION DISAPPROVAL PROHIBITED. (a) The disapproval of the proposed annexation of an area under this subchapter does not affect any existing legal obligation of the municipality proposing the annexation to continue to provide governmental services in the area, including water or wastewater services, regardless of whether the municipality holds a certificate of convenience and necessity to serve the area.

(b) The municipality may not initiate a rate proceeding solely because of the disapproval of a proposed annexation of an area under this subchapter.

(c) A municipality that makes a wholesale sale of water to a special district operating under Chapter 36 or Title 4, Water Code, may not charge rates for the water that are higher than rates charged in other similarly situated areas solely because the district is wholly or partly located in an area that disapproved of a proposed annexation under this subchapter.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 922 (H.B. 4257), Sec. 2, eff. June 10, 2019.

SUBCHAPTER D. ANNEXATION PROVISIONS RELATING TO SPECIAL DISTRICTS

Sec. 43.071. AUTHORITY TO ANNEX WATER OR SEWER DISTRICT. (a) In this section, "water or sewer district" means a district or authority created under Article III, Section 52, Subsections (b)(1) and (2), or under Article XVI, Section 59, of the Texas Constitution that provides or proposes to provide, as its principal function, water services or sewer services or both to household users. The term does not include a district or authority the primary function of which is the wholesale distribution of water.

(b) A municipality may not annex area in a water or sewer district unless it annexes the entire part of the district that is outside the municipality's boundaries. This restriction does not apply to the annexation of area in a water or sewer district if the district is wholly or partly in the extraterritorial jurisdiction of more than one municipality.

(c) An annexation subject to Subsection (b) is exempt from the provisions of this chapter that limit annexation authority to a municipality's extraterritorial jurisdiction if:

(1) immediately before the annexation, at least one-half of the area of the water or sewer district is in the municipality or its extraterritorial jurisdiction; and

(2) the municipality does not annex in the annexation proceeding any area outside its extraterritorial jurisdiction except the part of the district that is outside its extraterritorial jurisdiction.

(d) Area annexed under Subsection (b) is included in computing the amount of area that a municipality may annex under Section 43.055 in a calendar year. If the area to be annexed exceeds the amount of area the municipality would otherwise be able to annex, the municipality may annex the area but may not annex additional area during the remainder of that calendar year, except area subject to Subsection (b) and area that is excluded from the computation under Section 43.055.

(e) Subsections (b)-(d) do not apply to the annexation of:

(1) an area within a water or sewer district if:

(A) the governing body of the district consents to the annexation;

(B) the owners in fee simple of the area to be annexed consent to the annexation; and

(C) the annexed area does not exceed 525 feet in width at its widest point;

(2) a water or sewer district that has a noncontiguous part that is not within the extraterritorial jurisdiction of the municipality;

(3) a part of a special utility district created or operating under Chapter 65, Water Code; or

(4) a property by a municipality with a population of less than 3,000 if the governing body of a water or sewer district the boundaries of which include the property consents to the annexation.

(f) To annex the entire part of a water or sewer district that is outside the municipality's boundaries, a general-law municipality incorporated after 1983 that is, after incorporation of the district, incorporated over all or any part of the district may annex territory by ordinance without the consent of the inhabitants or property owners of the territory.

(g) For an annexation of an area in a water or sewer district that is wholly or partly in the overlapping extraterritorial jurisdiction of two or more municipalities, any one of those municipalities is not required to obtain under Section 42.023 the written consent of any of the other municipalities in order to annex the area if:

(1) the area contains less than 100 acres;

(2) the annexing municipality, before June 1, 2005, annexed more than 50 percent of the territory of the water or sewer district, as the district existed on the date of its creation; and

(3) the entire water or sewer district would be contained in the annexing municipality after completion of the annexation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 4(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1058, Sec. 3, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1178 (H.B. 536), Sec. 1, eff.

September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 605 (H.B. 3514), Sec. 1, eff. September 1, 2023.

Sec. 43.0712. INVALIDATION OF ANNEXATION OF SPECIAL DISTRICT; REIMBURSEMENT OF DEVELOPER. (a) If a municipality enacts an ordinance to annex a special district and assumes control and operation of utilities within the district, and the annexation is invalidated by a final judgment of a court after all appeals have been exhausted, the municipality is deemed, by enactment of its annexation ordinance, to have acquired title to utilities owned by a developer within the special district and is obligated to pay the developer all amounts related to the utilities as provided in Section 43.0715.

(b) Upon resumption of the functions of the special district:

(1) the municipality shall succeed to the contractual rights of the developer to be reimbursed by the special district for the utilities the municipality acquires from the developer; and

(2) the special district shall resume the use of the utilities acquired and paid for by the municipality and shall thereafter acquire the utilities from the municipality and reimburse the municipality for amounts the municipality paid the developer. The payment to the municipality shall be governed by the requirements of the Texas Commission on Environmental Quality.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 10, eff. Sept. 1, 1999. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 986 (S.B. 766), Sec. 32, eff. September 1, 2025.

Sec. 43.0715. ANNEXATION OF WATER-RELATED SPECIAL DISTRICT: REIMBURSEMENT OF LANDOWNER OR DEVELOPER; CONTINUATION OF DISTRICT AND TAXING AUTHORITY. (a) In this section:

(1) "Special district" means a political subdivision one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services or drainage.

(2) "Delinquent sum" means the sum a municipality has failed to timely pay to a landowner or developer under Subsection

(b).

(b) If a municipality with a population of less than 1.5 million annexes a special district for full or limited purposes and the annexation precludes or impairs the ability of the district to issue bonds, the municipality shall, prior to the effective date of the annexation, pay in cash to the landowner or developer of the district a sum equal to all actual costs and expenses incurred by the landowner or developer in connection with the district that the district has, in writing, agreed to pay and that would otherwise have been eligible for reimbursement from bond proceeds under the rules and requirements of the Texas Commission on Environmental Quality as such rules and requirements exist on the date of annexation.

(c) At the time notice of the municipality's intent to annex the land within the district is first given in accordance with Section 43.0683 or 43.0693, as applicable, the municipality shall proceed to initiate and complete a report for each developer conducted in accordance with the format approved by the Texas Commission on Environmental Quality for audits. In the event the municipality is unable to complete the report prior to the effective date of the annexation as a result of the developer's failure to provide information to the municipality which cannot be obtained from other sources, the municipality shall obtain from the district the estimated costs of each project previously undertaken by a developer which are eligible for reimbursement. The amount of such costs, as estimated by the district, shall be escrowed by the municipality for the benefit of the persons entitled to receive payment in an insured interest-bearing account with a financial institution authorized to do business in the state. To compensate the developer for the municipality's use of the infrastructure facilities pending the determination of the reimbursement amount, all interest accrued on the escrowed funds shall be paid to the developer whether or not the annexation is valid. Upon placement of the funds in the escrow account, the annexation may become effective. In the event a municipality timely escrows all estimated reimbursable amounts as required by this subsection and all such amounts, determined to be owed, including interest, are subsequently disbursed to the developer within five days of final determination in immediately available funds as required by this section, no penalties or interest shall accrue during the pendency of the escrow. Either the municipality or developer may, by written notice to the other party, require disputes

regarding the amount owed under this section to be subject to nonbinding arbitration in accordance with the rules of the American Arbitration Association.

(d) A delinquent sum incurs a penalty of six percent of the amount of the sum for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the sum remains unpaid. For an annexation occurring prior to the effective date of the changes in law made by this Act in amending Subsection (b), a delinquent sum begins incurring a penalty on the first day of the eighth month following the month in which the municipality enacted its annexation ordinance. For an annexation occurring after the effective date of this Act, a delinquent sum begins incurring a penalty on the first day after the date the municipality enacts its annexation ordinance.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(g), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 17, Sec. 1(2), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1058, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 597, Sec. 81, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 11.255, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 544, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 27, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.09, eff. May 24, 2019.

Sec. 43.072. AUTHORITY TO ANNEX MUNICIPAL UTILITY DISTRICT BY HOME-RULE MUNICIPALITY. (a) This section applies to a municipal utility district that is located entirely in the extraterritorial jurisdiction of a single general-law municipality and that has a common boundary with at least one home-rule municipality.

(b) A home-rule municipality having a common boundary with a district subject to this section may annex the area of the district if:

(1) the annexation is approved by a majority of the qualified voters who vote on the question at an election held under this section;

(2) the annexation is completed before the date that is one

year after the date of the election; and

(3) all the area of the district is annexed.

(c) Area annexed under Subsection (b) is included in computing the amount of area that a municipality may annex under Section 43.055 in a calendar year. If the area to be annexed exceeds the amount of area the municipality would otherwise be able to annex, the municipality may annex the area but may not annex additional area during the remainder of that calendar year, except area subject to Subsection (b) and area that is excluded from the computation under Section 43.055.

(d) Annexation of area under this section is exempt from the provisions of this chapter that prohibit:

(1) a municipality from annexing area outside its extraterritorial jurisdiction;

(2) annexation of area narrower than the minimum width prescribed by Section 43.054; or

(3) reduction of the extraterritorial jurisdiction of a municipality without the written consent of the municipality's governing body.

(e) If the district is composed of two or more tracts, at least one of which is not contiguous to the home-rule municipality, the fact that the annexation will result in one or more parts of the home-rule municipality being not contiguous to the rest of the municipality does not affect the municipality's authority to annex the district.

(f) The extraterritorial jurisdiction of a home-rule municipality is not expanded by the annexation of area under this section.

(g) The board of directors of the district may order an election under this section. The board shall conduct the election in the area composed of the district and the general-law municipality. A person who is qualified to vote in the general-law municipality or the district is eligible to vote in the election.

(h) The board of directors shall set the date of the election for the first uniform election date that falls on or after the 30th day after the date of the order. If a state law prescribing uniform election dates is not in effect on the date of the order, the board shall set the election for a date that falls on or after the 30th day but before the 60th day after the date of the order.

(i) The board of directors shall give notice of the election in

the manner provided for an election of the members of the board. The ballot for the election shall be printed to provide for voting for or against the proposition: "Authorizing the municipality of (name of the home-rule municipality) to annex the unincorporated area of the (name of the district)."

(j) Promptly after the board of directors declares the result of the election:

(1) the board shall mail or deliver a certified copy of the resolution declaring the result of the election to the mayor and the secretary of each of the two affected municipalities; and

(2) if the election authorizes annexation of the district by the home-rule municipality, the board shall file a certified copy of the resolution in the deed records of each county in which the district is located.

(k) During the time that an election under this section is pending, the general-law municipality may not annex area in the district. For the purposes of this requirement, an election is pending during the period that begins on the date the board of directors adopts the election order and ends on the date the board declares the result of the election. If, on the date the election order is adopted, the general-law municipality has instituted but not completed proceedings to annex area in the district, the general-law municipality may complete the annexation while the election is pending. If proceedings are completed while the election is pending, the annexation, to the extent that it includes area in the district, takes effect only if the election results in the defeat of the question and, in that case, it takes effect on the date the result of the election is officially declared.

(l) If the question is approved, the period during which the general-law municipality is prohibited from annexing area in the district is extended to the date that is one year after the date of the election.

(m) If a district holds an election under this section, the district may not hold another election under this section before the date that is one year after the date of the earlier election, except that if an election is held on a uniform election date prescribed by law, the subsequent election may be held on the corresponding uniform election date of the following year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 3(h), eff. Aug. 28, 1989.

Sec. 43.073. ABOLITION OF, OR DIVISION OF FUNCTIONS OF, LEVEE IMPROVEMENT DISTRICT ANNEXED BY MUNICIPALITY WITH POPULATION OF MORE THAN 500,000. (a) This section applies to a municipality with a population of more than 500,000 that annexes all or part of the area in a levee improvement district organized under the laws of this state.

(b) If the municipality annexes all the area in the district, the municipality:

(1) shall take over the property and other assets of the district;

(2) assumes all the debts, liabilities, and obligations of the district; and

(3) shall perform all the functions of the district, including the provision of services.

(c) The district is abolished on the annexation of all of its area by the municipality. The abolition of the district does not impair or otherwise affect a contract between the district and a flood control district or other governmental agency for the operation or maintenance of levees or other flood control works, but the municipality assumes the rights and obligations of the district under the contract. On the annexation of all of the area of the district, the municipality may refund, in whole or in part, any outstanding bonded indebtedness and may provide for a sufficient sinking fund to meet any refunding bonds issued.

(d) If the municipality annexes only part of the area in the district, the governing bodies of the municipality and the district may make contracts relating to the division and allocation between themselves of their duplicate and overlapping powers, duties, and other functions and relating to the use, management, control, purchase, conveyance, assumption, and disposition of the property and other assets, debts, liabilities, and obligations of the district. The amount of taxes levied by the district against a parcel of real estate subsequently annexed by the municipality shall be credited against any property taxes levied against the parcel by the municipality.

(e) If the municipality annexes only part of the area in the district, the district may contract with the municipality for the

municipal operation of the district's utility systems and other property and for the transfer, conveyance, or sale of those systems and that property, regardless of kind or location inside or outside municipal boundaries, to the municipality on terms to which the governing bodies of the district and municipality agree. That operating contract may extend for a period, not to exceed 30 years, stipulated in the contract and is subject to amendment, renewal, or termination by the mutual consent of the governing bodies. The contract may not impair the obligation of another contract of the municipality or district. In the absence of such a contract, the district may continue to exercise, unaffected by the annexation, the powers, duties, and other functions granted or imposed on the district by law. The municipality may not be required to perform any drainage functions in the district. The municipality may, with the consent of the district, construct and maintain drainage facilities in the district that are consistent with the reclamation plan of the district. The municipality may perform all other municipal functions that the municipality is authorized to perform and that the district is not engaged in performing nor authorized to perform.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 82, eff. Sept. 1, 1991.

Sec. 43.074. ABOLITION OF WATER-RELATED SPECIAL DISTRICT CREATED WHOLLY IN MUNICIPALITY. (a) A water control and improvement district, fresh water supply district, or municipal utility district created from area that, at the time of the district's creation, is located wholly in a municipality may be abolished as provided by this section.

(b) On a vote of at least two-thirds of the entire membership of the governing body of the municipality, the governing body may adopt an ordinance abolishing the district if the governing body finds:

(1) that:

(A) the district is no longer needed; or

(B) the services furnished and functions performed by the district can be furnished and performed by the municipality; and

(2) that the abolition of the district is in the best interests of the residents and property in the municipality and the

district.

(c) If before the effective date of the ordinance or if within 30 days after the effective date or the date of the publication of the ordinance, a petition that is signed and verified by a number of qualified voters of the municipality equal to at least 10 percent of the total votes cast at the most recent election for municipal officers is filed with the secretary of the municipality protesting the enactment or enforcement of the ordinance, the ordinance is suspended and any action taken under the ordinance is void. Immediately after the filing of the petition, the secretary shall present it to the governing body. Immediately after the presentation of the petition, the governing body shall reconsider the ordinance. If the governing body does not repeal the ordinance, the governing body shall submit it to a popular vote at the next municipal election or at a special election the governing body may order for that purpose. The ordinance does not take effect unless a majority of the votes received in the election favor the ordinance.

(d) On the adoption of the ordinance, the district is abolished, the property and other assets of the district vest in the municipality, and the municipality assumes and becomes liable for the bonds and other obligations of the district. The municipality shall perform the services and other functions that were performed by the district.

(e) If a district bond, warrant, or other obligation payable in whole or in part from property taxes is assumed by the municipality, the governing body shall levy and collect taxes on all taxable property in the municipality in an amount sufficient to pay the principal of and interest on the bond, warrant, or other obligation as it becomes due and payable.

(f) The municipality may issue refunding bonds in its own name to refund bonds, warrants, or other obligations, including unpaid accrued interest on an obligation, that is assumed by the municipality. The refunding bonds must be issued in the manner provided by Chapter 1207, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 35, eff. Sept. 1, 1999.

Sec. 43.075. ABOLITION OF, OR DIVISION OF FUNCTIONS OF, WATER-

RELATED SPECIAL DISTRICT THAT BECOMES PART OF NOT MORE THAN ONE MUNICIPALITY. (a) This section applies to:

(1) a municipality that annexes all or part of the area in a water control and improvement district, fresh water supply district, or municipal utility district organized for the primary purpose of providing municipal functions such as the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer service or drainage service; or

(2) a municipality:

(A) that, by incorporation of the municipality, includes in the municipality all or part of the area in a district described by Subdivision (1); and

(B) the governing body of which adopts, by a vote of at least two-thirds of its entire membership, an ordinance making this section applicable to the municipality.

(b) This section does not apply if the district includes area located in more than one municipality.

(c) The municipality succeeds to the powers, duties, assets, and obligations of the district as provided by this section. This section does not prohibit the municipality from continuing to operate utility facilities in the district that are owned and operated by the municipality on the date the area becomes a part of the municipality.

(d) If all the area in the district becomes a part of the municipality, the municipality:

(1) shall take over all the property and other assets of the district;

(2) assumes all the debts, liabilities, and obligations of the district; and

(3) shall perform all the functions of the district, including the provision of services.

(e) The governing body of the municipality by ordinance shall designate the date on which the duties and the assumption under Subsection (d) take effect. The date must be set for a day within 90 days after the date the area becomes a part of the municipality. If the governing body fails to adopt the ordinance, the duties and the assumption automatically take effect on the 91st day after the date the area becomes a part of the municipality. The district is abolished on the date the duties and assumption take effect.

(f) If only part of the area in the district becomes a part of the municipality, the governing bodies of the municipality and the

district may make contracts relating to the division and allocation between themselves of their duplicate and overlapping powers, duties, and other functions and relating to the use, management, control, purchase, conveyance, assumption, and disposition of the property and other assets, debts, liabilities, and obligations of the district.

(g) If only part of the area in the district becomes a part of the municipality, the district may contract with the municipality for the municipal operation of the district's utility systems and other property and for the transfer, conveyance, or sale of those systems and that property, regardless of kind or location inside or outside municipal boundaries, to the municipality on terms to which the governing bodies of the district and municipality agree. That operating contract may extend for a period, not to exceed 30 years, stipulated in the contract and is subject to amendment, renewal, or termination by the mutual consent of the governing bodies. The contract may not impair the obligation of another contract of the municipality or district. In the absence of such a contract, the district may continue to exercise the powers and other functions that it was authorized to exercise before the area became a part of the municipality, and the municipality may not, without the district's consent, duplicate the services rendered by the district in the district. However, the municipality may perform in the district all other municipal functions in which the district is not engaged.

(h) If a district bond, warrant, or other obligation payable in whole or in part from property taxes is assumed under this section by the municipality, the governing body shall levy and collect taxes on all taxable property in the municipality in an amount sufficient to pay the principal of and interest on the bond, warrant, or other obligation as it becomes due and payable. The municipality may issue refunding bonds or warrants to refund bonds, warrants, or other obligations, including unpaid earned interest on them, that is assumed by the municipality. The refunding bonds or warrants must be issued in the manner provided by Chapter 1207, Government Code. A refunding bond must bear interest at the same rate or at a lower rate than that borne by the refunded obligation unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

(i) If all the area in the district becomes a part of the municipality and if the district has outstanding bonds, warrants, or other obligations payable solely from the net revenues from the

operation of any utility system or property, the municipality shall take over and operate the system or property and shall apply the net revenues from the operation to the payment of the outstanding revenue bonds, warrants, or other obligations as if the district had not been abolished. The municipality may combine the district system or property with the municipality's similar system or property if:

(1) the municipality has no outstanding revenue bonds, warrants, or other obligations payable from and secured by a pledge of the net revenue of its own utility system or property; or

(2) the municipality:

(A) has outstanding obligations payable from and secured by a pledge of net revenues sufficient to meet the outstanding obligations; and

(B) those revenues have produced, during the five-year period before May 30, 1959, an annual surplus in an amount sufficient to meet the annual obligations for which the district revenues are pledged.

(j) If the municipality combines the systems or property as provided by Subsection (i), it shall levy on all property subject to taxation by the municipality an annual property tax at a rate that, when combined with other available municipal funds and revenues, is sufficient to pay the principal of and interest on the outstanding obligations.

(k) If all the area in the district becomes a part of the municipality, the municipality, unless the refunding authorized by Subsection (l) has been accomplished, shall separately operate the district and municipal systems and property and may not commingle revenue if the municipality has outstanding bonds, warrants, or other bonded obligations payable from and secured by a pledge of the net revenue of its own utility system or property and does not have an amount annually accruing to its surplus revenue fund that exceeds the amount of the fund pledged to the payment of outstanding municipal obligations and that is sufficient to meet the annual obligations for which the district revenues are pledged. The municipality shall perform the duties and other functions imposed by law or contract on the governing body of the district relating to the district's outstanding bonds, warrants, or other obligations and shall separately perform the duties and other functions relating to the bonds, warrants, and other obligations of the municipal system. The municipality may allocate overhead expenses between any two or more

systems in direct proportion to the gross income of each system.

(l) The municipality may issue revenue refunding bonds in its own name for the purpose of refunding outstanding district revenue bonds, warrants, or other obligations, including unpaid accrued interest on them, that are assumed by the municipality under this section. The municipality may combine different issues of district and municipal revenue bonds, warrants, or other obligations into one series of revenue refunding bonds and may pledge the net revenues of the utility systems or property to the payment of the refunding bonds as the governing body considers proper. Except as otherwise provided by this section, Chapter 1502, Government Code, applies to the revenue refunding bonds, but an election for the issuance of the bonds is not required. Refunding bonds must bear interest at the same rate or at a lower rate than that borne by the refunded obligations unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 36, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 8.285, eff. Sept. 1, 2001.

Sec. 43.0751. STRATEGIC PARTNERSHIPS FOR CONTINUATION OF CERTAIN DISTRICTS. (a) In this section:

(1) "District" means a conservation and reclamation district operating under Chapter 49, Water Code. The term does not include a groundwater conservation district operating under Chapter 36, Water Code, or a special utility district operating under Chapter 65, Water Code.

(2) "Limited district" means a district that, pursuant to a strategic partnership agreement, continues to exist after full-purpose annexation by a municipality in accordance with the terms of a strategic partnership agreement.

(3) "Strategic partnership agreement" means a written agreement described by this section between a municipality and a district.

(b) The governing bodies of a municipality and a district may negotiate and enter into a written strategic partnership agreement for the district by mutual consent.

(c) A strategic partnership agreement shall not be effective

until adopted by the governing bodies of the municipality and the district. The agreement shall be recorded in the deed records of the county or counties in which the land included within the district is located and shall bind each owner and each future owner of land included within the district's boundaries on the date the agreement becomes effective.

(d) Before the governing body of a municipality or a district adopts a strategic partnership agreement, it shall conduct two public hearings at which members of the public who wish to present testimony or evidence regarding the proposed agreement shall be given the opportunity to do so. Notice of public hearings conducted by the governing body of a municipality under this subsection shall be published in a newspaper of general circulation in the municipality and in the district. The notice must be in the format prescribed by Section 43.123(b) and must be published at least once on or after the 20th day before each date. Notice of public hearings conducted by the governing body of a district under this subsection shall be given in accordance with the district's notification procedures for other matters of public importance. Any notice of a public hearing conducted under this subsection shall contain a statement of the purpose of the hearing, the date, time, and place of the hearing, and the location where copies of the proposed agreement may be obtained prior to the hearing. The governing bodies of a municipality and a district may conduct joint public hearings under this subsection, provided that at least one public hearing is conducted within the district.

(e) The governing body of a municipality may not annex a district for limited purposes under this section or under the provisions of Subchapter F until it has adopted a strategic partnership agreement with the district. The governing body of a municipality may not adopt a strategic partnership agreement before the agreement has been adopted by the governing body of the affected district.

(f) A strategic partnership agreement may provide for the following:

(1) limited-purpose annexation of the district on terms acceptable to the municipality and the district provided that the district shall continue in existence during the period of limited-purpose annexation;

(2) limited-purpose annexation of a district located in a

county with a population of more than 3.3 million:

(A) only if the municipality does not require services, permits, or inspections or impose fees for services, permits, or inspections within the district; and

(B) provided that this subsection does not prevent the municipality from providing services within the district if:

(i) the provision of services is specified and agreed to in the agreement;

(ii) the provision of services is not solely the result of a regulatory plan adopted by the municipality in connection with the limited-purpose annexation of the district; and

(iii) the district has obtained the authorization of the governmental entity currently providing the service;

(3) payments by the municipality to the district for services provided by the district;

(4) annexation of any commercial property in a district for full purposes by the municipality, notwithstanding any other provision of this code or the Water Code, except for the obligation of the municipality to provide, directly or through agreement with other units of government, full provision of municipal services to annexed territory, in lieu of any annexation of residential property or payment of any fee on residential property in lieu of annexation of residential property in the district authorized by this subsection;

(5) a full-purpose annexation provision on terms acceptable to the municipality and the district;

(6) conversion of the district to a limited district including some or all of the land included within the boundaries of the district, which conversion shall be effective on the full-purpose annexation conversion date established under Subdivision (5);

(7) agreements existing between districts and governmental bodies and private providers of municipal services in existence on the date a municipality evidences its intention by adopting a resolution to negotiate for a strategic partnership agreement with the district shall be continued and provision made for modifications to such existing agreements; and

(8) such other lawful terms that the parties consider appropriate.

(g) A strategic partnership agreement that provides for the creation of a limited district under Subsection (f)(6) shall include

provisions setting forth the following:

(1) the boundaries of the limited district;

(2) the functions of the limited district and the term during which the limited district shall exist after full-purpose annexation, which term may be renewed successively by the governing body of the municipality, provided that no such original or renewed term shall exceed 10 years;

(3) the name by which the limited district shall be known; and

(4) the procedure by which the limited district may be dissolved prior to the expiration of any term established under Subdivision (2).

(h) On the full-purpose annexation conversion date set forth in the strategic partnership agreement pursuant to Subsection (f)(5), the land included within the boundaries of the district shall be deemed to be within the full-purpose boundary limits of the municipality without the need for further action by the governing body of the municipality. The full-purpose annexation conversion date established by a strategic partnership agreement may be altered only by mutual agreement of the district and the municipality. However, nothing herein shall prevent the municipality from terminating the agreement and instituting proceedings to annex the district, on request by the governing body of the district, on any date prior to the full-purpose annexation conversion date established by the strategic partnership agreement under the procedures prescribed by Subchapter C-1. Land annexed for limited or full purposes under this section shall not be included in calculations prescribed by Section 43.055(a).

(i) A strategic partnership agreement may provide that the district shall not incur additional debt, liabilities, or obligations, to construct additional utility facilities, or sell or otherwise transfer property without prior approval of the municipality.

(j) Except as limited by this section or the terms of a strategic partnership agreement, a district that has been annexed for limited purposes by a municipality and a limited district shall have and may exercise all functions, powers, and authority otherwise vested in a district.

(k) A municipality that has annexed all or part of a district for limited purposes under this section may impose a sales and use

tax within the boundaries of the part of the district that is annexed for limited purposes. Except to the extent it is inconsistent with this section, Chapter 321, Tax Code, governs the imposition, computation, administration, governance, and abolition of the sales and use tax.

(l) An agreement or a decision made under this section and an action taken under the agreement by the parties to the agreement are not subject to approval or an appeal brought under the Water Code unless it is an appeal of a utility rate charged by a municipality to customers outside the corporate boundaries of the municipality.

(m) A municipality that may annex a district for limited purposes to implement a strategic partnership agreement under this section shall not annex for full purposes any territory within a district created pursuant to a consent agreement with that municipality executed before August 27, 1979. The prohibition on annexation established by this subsection shall expire on September 1, 1997, or on the date on or before which the municipality and any district may have separately agreed that annexation would not take place whichever is later.

(n) This subsection applies only to a municipality any portion of which is located in a county that has a population of not less than 315,000 and not more than 351,000 and that borders the Gulf of Mexico and is adjacent to a county with a population of more than 3.3 million. A municipality may impose within the boundaries of a district a municipal sales and use tax authorized by Chapter 321, Tax Code, or a municipal hotel occupancy tax authorized by Chapter 351, Tax Code, that is imposed in the municipality if:

(1) the municipality has annexed the district for limited purposes under this section; or

(2) following two public hearings on the matter, the municipality and the district enter a written agreement providing for the imposition of the tax or taxes.

(n-1) At the conclusion of the term of an agreement between a municipality and a district under Subsection (n), the district and the municipality may extend the agreement for a period not to exceed 10 years. An agreement may be extended only once under this subsection.

(o) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(17), eff. May 24, 2019.

(p) An agreement under this section:

(1) may not require the district to provide revenue to the municipality solely for the purpose of obtaining an agreement with the municipality to forgo annexation of the district; and

(2) must provide benefits to each party, including revenue, services, and regulatory benefits, that must be reasonable and equitable with regard to the benefits provided by the other party.

(q) Except for Sections 43.130(a) and (b), Subchapter F does not apply to a limited-purpose annexation under a strategic partnership agreement.

(r) A district or the area of a district annexed for limited purposes under this section must be:

(1) in the municipality's extraterritorial jurisdiction; and

(2) contiguous to the corporate boundaries of the municipality or an area annexed by the municipality for limited purposes, unless the district consents to noncontiguous annexation under a strategic partnership agreement with the municipality.

(s) Notwithstanding any other law other than Section 43.083, the procedures prescribed by Subchapters C-3, C-4, and C-5 do not apply to the annexation of an area under this section. Except as provided by Subsection (h), a municipality shall follow the procedures established under the strategic partnership agreement for full-purpose annexation of an area under this section.

Added by Acts 1995, 74th Leg., ch. 787, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 29, Sec. 1, eff. May 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 13.12, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1167, Sec. 11, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 44, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1263, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 2, 3, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 297, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 774 (H.B. 3723), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1076 (S.B. 1082), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1076 (S.B. 1082), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 62, eff.

September 1, 2011.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 28, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(17), eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.10, eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 632 (S.B. 1468), Sec. 1, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 123, eff. September 1, 2023.

Sec. 43.07515. REGULATION OF FIREWORKS UNDER STRATEGIC PARTNERSHIP AGREEMENT LAW. (a) A municipality may not regulate under Section 43.0751 the sale, use, storage, or transportation of fireworks outside of the municipality's boundaries.

(b) To the extent of a conflict with any other law, this section controls.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1076 (S.B. 1082), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.11, eff. May 24, 2019.

Sec. 43.0753. REGIONAL DEVELOPMENT AGREEMENTS. (a) In this section:

(1) "District" means a conservation and reclamation district that is created or operating under Chapters 49 and 54, Water Code, and that is located entirely within the boundaries of a planned community and entirely within the extraterritorial jurisdiction of a municipality.

(2) "Municipality" means a municipality with a population of 1.6 million or more.

(3) "Planned community" means a planned community of 10,000 acres or more that is subject in whole or in part to a restrictive covenant that contains an ad valorem-based assessment on real property used or to be used, in any part, to fund governmental or

quasi-governmental services and facilities within and for the planned community.

(4) "Regional development agreement" means a contract or agreement entered into under this section or in anticipation of the enactment of this section and any amendment, modification, supplement, addition, renewal, or extension to or of the contract or agreement or any proceeding relating to the contract or agreement.

(b) Notwithstanding any contrary law or municipal charter provision, the governing body of a municipality and the governing body of one or more districts may enter into a regional development agreement to further regional cooperation between the municipality and the district.

(c) A regional development agreement may allow:

(1) any type of annexation of any part of the land in the district to be deferred for a mutually agreeable period of time;

(2) facilities or services to be provided to the land within the district by any party to the agreement or by any other person, including optional, backup, emergency, mutual aid, or supplementary facilities or services;

(3) payments to be made by the municipality to the district or another person or by the district or another person to the municipality for services provided to the district or municipality;

(4) standards for requesting and receiving any form of required consent or approval from the municipality;

(5) a district to issue bonds, notes, refunding bonds, or other forms of indebtedness;

(6) the coordination of local, regional, and areawide planning;

(7) remedies for breach of the agreement;

(8) the modification, amendment, renewal, extension, or termination of the agreement;

(9) any other district to join the agreement at any time;

(10) third-party beneficiaries to be specifically designated and conferred rights or remedies under the agreement; and

(11) any other term to which the parties agree.

(d) A regional development agreement must be:

(1) in writing;

(2) approved by the governing body of the municipality and the district; and

(3) recorded:

(A) in the real property records of any county in which any part of a district that is party to the agreement is located; and

(B) in any manner that complies with Subchapter J, Chapter 49, Water Code.

(e) Subject to compliance with Subsection (d)(1) and (3), another district may join or become a party to a regional development agreement in the manner authorized in the agreement.

(f) A regional development agreement does not need to describe the land contained within the boundaries of a district that is a party to the agreement. The agreement must be recorded in the deed records of any county in which any land in the district is located.

(g) A regional development agreement binds each party to the agreement and each owner and future owner of land that is subject to the agreement. If a party or landowner is excluded or removed from an agreement, the removal or exclusion is effective on the recordation requirement of Subsection (d)(3).

(h) A regional development agreement may not require a district to provide public services and facilities to a person to whom the district is not otherwise authorized to provide services or facilities or to make payments from any source from which the district is not otherwise authorized to make payments.

(i) A district may contract with any person for services or facilities to be provided at no cost to the district or for the payment of funds by the person in support of a regional development agreement.

(j) A regional development agreement and any action taken under the agreement is not subject to any method of approval under the Water Code or any method of appeal under the Water Code.

(k) Notwithstanding any defect, ambiguity, discrepancy, invalidity, or unenforceability of a regional development agreement that has been voluntarily entered into and fully executed by the parties thereto, or any contrary law, common law doctrine, or municipal charter provision, and for the duration of any annexation deferral period established in the regional development agreement during which a district continues to perform its obligations under the regional development agreement:

(1) Sections 42.023 and 42.041(b)-(e) do not apply to any land or owner of land within a district that is a party to the regional development agreement; and

(2) the governing body of the municipality may not include the area covered by the regional development agreement in a municipal annexation plan and may not initiate or continue an annexation proceeding relating to that area after the effective date of this section.

(l) This section shall be liberally construed so as to give effect to its legislative purposes and to sustain the validity of a regional development agreement if the agreement was entered into under or in anticipation of this section.

Added by Acts 1999, 76th Leg., ch. 293, Sec. 2, eff. May 29, 1999. Renumbered from Sec. 43.0752 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(83), eff. Sept. 1, 2001.

Sec. 43.0754. REGIONAL PARTICIPATION AGREEMENTS. (a) In this section:

(1) "District" means a political subdivision created by general or special law that has the powers of a municipal management district under Chapter 375 and a conservation and reclamation district under Chapters 49 and 54, Water Code, a majority by area of the territory of which is located within a planned community and within the extraterritorial jurisdiction of one or more municipalities.

(2) "Eligible municipality" means a municipality:

(A) that has a population of 1.5 million or more and that includes in its extraterritorial jurisdiction at least 90 percent by area of the territory of a district;

(B) that includes in its extraterritorial jurisdiction not more than 10 percent of the territory of a district that has entered into a regional participation agreement under this section with another eligible municipality described by Paragraph (A); or

(C) with corporate boundaries contiguous to the boundaries of a district that has entered into a regional participation agreement under this section with another eligible municipality described by Paragraph (A).

(3) "Party" means a district, eligible municipality, or person that is a party to a regional participation agreement approved and entered into under this section.

(4) "Planned community" means a planned community of 20

square miles or more with a population of 50,000 or more that is subject in whole or in part to a restrictive covenant that contains an ad valorem-based assessment on real property used or to be used, in any part, to fund governmental or quasi-governmental services and facilities within and for the planned community.

(5) "Regional participation agreement" means a contract or agreement entered into under this section or in anticipation of the enactment of this section and any amendment, modification, supplement, addition, renewal, or extension to or of the contract or agreement or any proceeding relating to the contract or agreement.

(b) Notwithstanding any contrary law or municipal charter provision, the governing body of an eligible municipality, the governing body of a district, and, if applicable, a person may approve and authorize execution and performance of a regional participation agreement to further regional participation in the funding of eligible programs or projects. A regional participation agreement must include as parties at least one eligible municipality and one district and may include as parties other eligible municipalities, districts, or persons.

(c) A regional participation agreement may provide or allow for:

(1) the establishment, administration, use, investment, and application of a regional participation fund, which shall be a special fund or escrow account to be used solely for funding the costs and expenses of eligible programs or projects;

(2) payments to be made by a party into the regional participation fund for application, currently or in the future, toward eligible programs or projects;

(3) the methods and procedures by which eligible programs or projects are prioritized, identified, and selected for implementation and are planned, designed, bid, constructed, administered, inspected, and completed;

(4) the methods and procedures for accounting for amounts on deposit in, to the credit of, or expended from the regional participation fund, as well as any related investment income or amounts due and owing to or from any party to the fund;

(5) credits against payments otherwise due by any party under the agreement resulting from taxes, charges, fees, assessments, tolls, or other payments in support of or related to the usage or costs of eligible programs or projects that are levied or imposed

upon, assessed against, or made applicable to a party or its citizens, ratepayers, taxpayers, or constituents after the effective date of the agreement;

(6) any type of annexation of any part of the territory of a district to be deferred by an eligible municipality that is a party for a mutually agreeable period;

(7) the release of territory from the extraterritorial jurisdiction of an eligible municipality that is a party at a specified time or upon the occurrence of specified events;

(8) the consent of an eligible municipality that is a party to the incorporation of, or the adoption of an alternate form of government by, all or part of the territory of a district at a specified time or upon the occurrence of specified events;

(9) remedies for breach of the agreement;

(10) the modification, amendment, renewal, extension, or termination of the agreement;

(11) other districts, eligible municipalities, or persons to join the agreement as a party at any time;

(12) third-party beneficiaries to be specifically designated and conferred rights or remedies under the agreement;

(13) the duration of the agreement, including an unlimited term;

(14) the creation and administration of a nonprofit corporation, joint powers agency, local government corporation, or other agency for the purpose of administration and management of a regional participation fund, program, or project under the agreement; and

(15) any other provision or term to which the parties agree.

(d) A regional participation agreement may provide for the funding of any program or project, whether individual, intermittent, or continuing and whether located or conducted within or outside the boundaries of a party, for the planning, design, construction, acquisition, lease, rental, installment purchase, improvement, provision of furnishings or equipment, rehabilitation, repair, reconstruction, relocation, preservation, beautification, use, execution, administration, management, operation, or maintenance of any works, improvements, or facilities, or for providing any functions or services, whether provided to, for, by, or on behalf of a party, that provide a material benefit to each party in the

accomplishment of the purposes of each party, related to:

(1) mobility or transportation, including mass transportation, traffic circulation, or ground, air, rail, water, or other means of transportation or movement of people, freight, goods, or materials;

(2) health care treatment, research, teaching, or education facilities or infrastructure;

(3) parks or recreation, open space, and scenic, wildlife, wetlands, or wilderness areas;

(4) public assembly or shelter, including halls, arenas, stadiums or similar facilities for sporting events, exhibitions, conventions, or other mass assembly purposes;

(5) environmental preservation or enhancement, including air or water quality protection, improvement, preservation, or enhancement, and noise abatement;

(6) the supply, conservation, transportation, treatment, disposal, or reuse of water or wastewater;

(7) drainage, stormwater management or detention, and flood control or prevention;

(8) solid waste collection, transfer, processing, reuse, resale, disposal, and management; or

(9) public safety and security, including law enforcement, firefighting and fire prevention, emergency services and facilities, and homeland security.

(e) A regional participation agreement must be:

(1) in writing;

(2) approved by the governing body of each eligible municipality or district that is or that becomes a party to the agreement; and

(3) must be recorded in the deed records of any county in which is located any territory of a district that is or that becomes a party to the agreement.

(f) A district, eligible municipality, or person may join or become a party to a regional participation agreement in the manner authorized in the agreement.

(g) A regional participation agreement is not required to describe the land contained within the boundaries of a party to the agreement, but any territory to be released from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement must be described in sufficient detail to convey title to

land and the description must be made a part of the agreement.

(h) A regional participation agreement binds each party and its legal successor, including a municipality or other form of local government, to the agreement for the term specified in the agreement and each owner and future owner of land that is subject to the agreement during any annexation deferral period established in the agreement. If a party, land, or landowner is excluded or removed from an agreement, the removal or exclusion is effective on the recordation of the amendment, supplement, modification, or restatement of the agreement implementing the removal or exclusion.

(i) A regional participation agreement may not require a party to make payments from any funds that are restricted, encumbered, or pledged for the payment of contractual obligations or indebtedness of the party. Otherwise, any party may commit or pledge or may issue bonds payable from or secured by a pledge of any available source of funds, including unencumbered sales and use taxes, to make payments due or to become due under an agreement.

(j) Notwithstanding any other law, a program or project to be funded and any bonds to be issued by a district to make payments under a regional participation agreement are not subject to review or approval by the Texas Commission on Environmental Quality.

(k) A regional participation agreement and any action taken under the agreement are not subject to any method of approval or appeal under the Water Code.

(l) After due authorization, execution, delivery, and recordation as provided by this section, a regional participation agreement, including any related amendment, supplement, modification, or restatement, and a pledge of funds to make payments under an agreement shall be final and incontestable in any court of this state.

(m) Notwithstanding any defect, ambiguity, discrepancy, invalidity, or unenforceability of a regional participation agreement that has been voluntarily entered into and fully executed by the parties, or any contrary law, common law doctrine, or municipal charter provision, and for the duration of any annexation deferral period established in the agreement during which a district continues to perform its obligations under the agreement:

(1) Section 42.023 and any other law or municipal charter provision relating to the reduction of the extraterritorial jurisdiction of an eligible municipality that is a party do not

apply, and Sections 42.041(b)-(e) do not apply to any land or owner of land within a district that is a party;

(2) the governing body of an eligible municipality that is a party may not initiate or continue an annexation proceeding relating to that area but may include the area covered by the agreement in a municipal annexation plan; and

(3) any area that is to be released from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement, or that is to be incorporated or included within an alternate form of government with the consent of a municipality that is a party under an agreement, shall, by operation of law and without further action by a party or its governing body, be released from the extraterritorial jurisdiction, or consent of the municipality to the incorporation or adoption of an alternate form of government by the district shall be deemed to have been given, as appropriate under the agreement, at the time or upon the occurrence of the events specified in the agreement.

(n) Notwithstanding the provisions of any municipal charter or other law, a district or an eligible municipality is not required to hold an election to authorize a regional participation agreement. As long as such funds remain restricted for use under an agreement, payments to or income from a regional participation fund shall not be deemed revenues to an eligible municipality for purposes of any law or municipal charter provision relating to revenue or property tax caps or limits.

(o) This section is cumulative of all other authority to make, enter into, and perform a regional participation agreement. In case of any conflict or ambiguity between this section and any other law or municipal charter provision, this section shall prevail and control.

(p) This section shall be liberally construed so as to give effect to its legislative purposes and to sustain the validity of a regional participation agreement if the agreement was entered into under or in anticipation of enactment of this section.

(q) For purposes of Subchapter I, Chapter 271:

(1) a district or eligible municipality is a "local governmental entity" within the meaning of Section 271.151(3); and

(2) a regional participation agreement is a "contract subject to this subchapter" within the meaning of Section 271.151(2), without regard to whether the agreement is for providing goods or

services.

Added by Acts 2007, 80th Leg., R.S., Ch. 88 (S.B. 1012), Sec. 1, eff. May 14, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 692 (H.B. 2726), Sec. 1, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 692 (H.B. 2726), Sec. 2, eff. September 1, 2009.

Sec. 43.0755. PROCEDURES FOR INCORPORATION OR ESTABLISHMENT OF ANOTHER FORM OF LOCAL GOVERNMENT FOR CERTAIN AREAS SUBJECT TO REGIONAL PARTICIPATION AGREEMENT. (a) In this section, "district," "eligible municipality," and "regional participation agreement" have the meanings assigned by Section 43.0754.

(b) This section applies only to a district and an eligible municipality that have entered into a regional participation agreement under Section 43.0754 that authorizes any of the actions described by Section 43.0754(c)(6), (7), or (8).

(c) Notwithstanding any other law, including laws prescribing population or territorial requirements for incorporation under Section 5.901, 6.001, 7.001, or 8.001, the governing body of a district may order an election as provided by this subsection to be held on a uniform election date prescribed by Section 41.001, Election Code. An election under this subsection may, consistent with the regional participation agreement, be ordered for the purpose of:

(1) submitting to the qualified voters of the district the question of whether the territory of the district should be incorporated as a municipality;

(2) submitting to the qualified voters of a designated area of the district the question of whether that designated area should be incorporated as a municipality;

(3) submitting to the qualified voters of the district the question of whether the territory of the district should adopt a specific alternate form of local government other than a municipality; or

(4) submitting to the qualified voters of a designated area of the district the question of whether that designated area should

adopt a specific alternate form of local government other than a municipality.

(d) Notwithstanding any other law:

(1) the authority of the governing body of a district to order an election under Subsection (c) is separate and independent and is the exclusive means of ordering any such election;

(2) all or any part of the territory of a district may be incorporated as a Type A, Type B, or Type C municipality, as determined by the governing body of the district ordering the incorporation election under Subsection (c)(1) or (2); and

(3) the requirements of Sections 7.002 and 8.002 do not apply to an election ordered under Subsection (c)(1) or (2).

(e) In an election ordered under Subsection (c)(2) or (4), the governing body of the district may order elections in multiple designated areas on the same date or order elections in designated areas periodically on a uniform election date.

(f) In any election ordered under Subsection (c), the governing body of the district shall also submit for confirmation to the voters voting in the election the proposed initial property tax rate determined for the municipality or alternate form of government, as applicable, which may not exceed the maximum rate authorized by law. The ballot in an election held under Subsection (c) shall be printed to permit voting for or against the proposition: "Authorizing the (specify the incorporation of or the adoption of an alternate form of local government for) (insert name of local government) and the adoption of an initial property tax rate of not more than (specify the maximum rate determined)."

(g) In any election ordered under Subsection (c), the governing body of the district may also submit to the voters voting in the election any other measure the governing body considers necessary and convenient to effectuate the transition to a municipal or alternate form of local government, including a measure on the question of whether, on incorporation as a municipality or establishment of an alternate form of local government, any rights, powers, privileges, duties, purposes, functions, or responsibilities of the district or the district's authority to issue bonds and impose a tax is transferred to the municipality or alternate form of local government.

(h) If a majority of the voters voting in an election under Subsection (c)(2) or (4) approve the proposition submitted on the

form of local government, the county judge of the county in which the municipality or alternate form of local government is located shall order an election for the governing body of the municipality or alternate form of local government to be held on a date that complies with the provisions of the Election Code, except that Section 41.001(a), Election Code, does not apply. A municipality or alternate form of local government resulting from an election described by this subsection is incorporated or established on the date a majority of the members of the governing body qualify and take office.

(i) If a majority of the voters voting in an election under Subsection (c)(1) or (3) approve the proposition submitted on the form of local government, the district is dissolved and the governing body of the district will serve as the temporary governing body of the municipality or alternate form of local government until a permanent governing body is elected as provided by Subsection (j).

(j) The temporary governing body under Subsection (i) shall order an election to elect the permanent governing body of the municipality or alternate form of local government to occur on a date that complies with the provisions of the Election Code, except that Section 41.001(a), Election Code, does not apply.

(k) An election ordered under Subsection (h) or (j) to elect members of the governing body of a municipality must be held under the applicable provisions of Chapter 22, 23, or 24, to the extent consistent with this section. An election for members of the governing body of an alternate form of government must be held under the law applicable to that form of government, to the extent consistent with this section.

(l) If a majority of the voters voting in an election under Subsection (c)(1) or (3) approve the proposition submitted on the form of local government for the territory of the district, the assets, liabilities, and obligations of the district are transferred to the form of government approved at the election.

(m) If a majority of the voters voting in an election under Subsection (c)(2) or (4) approve the proposition submitted on the form of local government in a designated area of the district and if, on the date of the election approving the form of local government, the district owes any debts, by bond or otherwise, the designated area is not released from its pro rata share of the indebtedness.

(n) For purposes of determining the initial tax rate of a

municipality or an alternate form of local government, the tax rate of the district when the territory incorporated or established as an alternate form of government was part of the district is not considered for purposes of the calculations required by Section 26.04(c), Tax Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 593 (S.B. 1015), Sec. 1, eff. June 9, 2017.

Sec. 43.076. ABOLITION OF WATER-RELATED SPECIAL DISTRICT THAT BECOMES PART OF MORE THAN ONE MUNICIPALITY. (a) This section applies to a municipality that contains, as a result of the annexation by or the incorporation of the municipality, any part of the area in a water control and improvement district, fresh water supply district, or municipal utility district organized for the primary purpose of providing municipal functions such as the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer service, if:

(1) the balance of the area in the district is located in one or more other municipalities;

(2) the district is not created by a special act of the legislature and the balance of the area is located in one or more other municipalities and in an unincorporated area; or

(3) the district is a conservation and reclamation district of more than 10,000 acres which provides water and sanitary sewer service to households and parts of which are located in two or more municipalities, one of which has a population of more than 1.6 million.

(b) The municipality succeeds to the powers, duties, assets, and obligations of the district as provided by this section. This section does not prohibit the municipality from continuing to operate utility facilities in the district that are owned and operated by the municipality on the date the part of the district area becomes a part of the municipality.

(c) If the district is located wholly in two or more municipalities, the district may be abolished by agreement among the district and the municipalities in which the district is located. Subject to Subsection (f), the agreement must provide for the distribution among the municipalities of the property and other

assets of the district and for the pro rata assumption by the municipalities of all the debts, liabilities, and obligations of the district. The assumption by each municipality must be based on the ratio that the value of the property and other assets distributed to that municipality bears to the total value of all the property and other assets of the district. The determination of value may be made on an original cost basis, a reproduction cost basis, a fair market value basis, or by any other valuation method agreed on by the parties that reasonably reflects the value of the property and other assets, debts, liabilities, and obligations of the district. The agreement must specify the date on which the district is abolished.

(d) If the district is located wholly in two or more municipalities and in unincorporated area, the district may be abolished by agreement among the district and all of the municipalities in which parts of the district are located. The abolition agreement must provide for the distribution of assets and liabilities as provided by Subsection (c). The agreement must also provide for the distribution among one or more of the municipalities of the pro rata assets and liabilities located in the unincorporated area and must provide for service to customers in unincorporated areas in the service area of the abolished district. The municipality that provides the service in the unincorporated area may charge its usual and customary fees and assessments to the customers in that area.

(e) An agreement made under Subsection (c) or (d) must be approved by an ordinance adopted by the governing body of each municipality and by an order or resolution adopted by the governing board of the district before the date specified in the agreement for the abolition, distribution, and assumption.

(f) If the abolished district has outstanding bonds, warrants, or other obligations payable in whole or in part from the net revenue from the operation of the district utility system or property, the affected municipalities shall take over and operate the system or property through a board of trustees as provided by this section. The municipalities shall apply the net revenue from the operation of the system or property to the payment of outstanding revenue bonds, warrants, or other obligations as if the district had not been abolished. The system or property shall be operated in that manner until all the revenue bonds, warrants, or obligations are retired in full by payment or by the refunding of the bonds, warrants, or other

obligations into municipal obligations. The board of trustees must be composed of not more than five members appointed by the governing bodies of the municipalities. The trustees are appointed for the terms and shall perform the duties as provided by the agreement made under Subsection (c) or (d). The board also shall perform the duties and other functions that are imposed by law or by contract on the abolished district and its governing board and that relate to the outstanding revenue bonds. The board shall charge and collect sufficient rates for the services of the system or property and shall apply the revenue to comply with each covenant or agreement contained in the proceedings relating to the revenue bonds, warrants, or other obligations with respect to the payment of principal and interest and the maintenance of reserves and other funds. When all the revenue bonds, warrants, and other obligations are retired in full, the property and other assets of the district shall be distributed among the municipalities as provided by Subsection (c) or (d). On the distribution, the board is abolished.

(g) When the pro rata share of any district bonds, warrants, or other obligations payable in whole or in part from property taxes has been assumed by the municipality, the governing body of the municipality shall levy and collect taxes on all taxable property in the municipality to pay the principal of and interest on its share as the principal and interest become due and payable.

(h) The municipality may issue general obligation refunding bonds in its own name to refund in whole or in part its pro rata share of any outstanding district bonds, warrants, or other obligations, including unpaid earned interest on them, that are assumed by the municipality and that are payable in whole or in part from property taxes. The refunding bonds must be issued in the manner provided by Chapter 1207, Government Code. Refunding bonds must bear interest at the same rate or at a lower rate than that borne by the refunded obligations unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

(i) The municipality may issue revenue refunding bonds or general obligation refunding bonds in its own name to refund in whole or in part its pro rata share of any outstanding district bonds, warrants, or other obligations, including unpaid earned interest on them, that are assumed by the municipality and that are payable solely from net revenues. The municipality may combine the different

issues or the bonds of different issues of both district and municipal revenue bonds, warrants, or other obligations into one or more series of revenue refunding bonds. The municipality may pledge the net revenues of the district utility system or property to the payment of those bonds, warrants, or other obligations. The municipality may also combine the different issues or the bonds of the different issues into one or more series of general obligation refunding bonds. An originally issued municipal revenue bond may not be refunded into municipal general obligation refunding bonds. Except as otherwise provided by this section, Subchapter B, Chapter 1502, Government Code, applies to the revenue refunding bonds, but an election for the issuance of the bonds is not required. Revenue refunding bonds or general obligation refunding bonds must be issued in the manner provided by Chapter 1207, Government Code. The revenue refunding bonds and the general obligation refunding bonds must bear interest at the same rate or at a lower rate than that borne by the refunded obligations unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1339, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1064, Sec. 37, eff. Sept. 1, 1999.

Sec. 43.0761. PROVISION OF WATER AND SANITARY SEWER UTILITY SERVICE. (a) A district existing on September 1, 1997, that, within 10 years after the date of its creation, has not provided water and sanitary sewer utility service from its facilities to all household users in its territory shall:

(1) provide water and sanitary sewer utility service from its facilities to all household users in its territory not later than September 1, 1998; or

(2) for that part of the district for which the district does not provide water and sanitary sewer utility service, and for which a municipality does provide those services, provide for periodic payments, as described by Subsection (b), by the district to the municipality that provides the services.

(b) Payments made under Subsection (a)(2) are operation and maintenance expenses of the district and shall be made at least every

three months. The total annual amount of the payments may not exceed the lesser of:

(1) the total annual cost to the municipality of providing the water and sanitary sewer utility service, including both capital and operation and maintenance costs and expenses; or

(2) the total annual amount of maintenance and operation taxes and debt service or bond taxes paid to the district by the owners of taxable property within the district that receives water and sanitary sewer utility service from the municipality.

(c) For purposes of Subsection (b)(2), the value of taxable property that receives the utility service shall be determined by the most recent certified tax roll provided by the central appraisal district in which the property is located. The amount of the taxes shall be determined using rates from the district's most recent tax levies.

(d) A district that on January 1, 1997, was providing water and sanitary sewer utility service to households outside the territory of the district may not discontinue that service and shall continue to provide that service on the basis of rates established by the district in accordance with Chapter 13, Water Code.

(e) In this section, "district" means a conservation and reclamation district of more than 10,000 acres that provides water and sanitary sewer utility service to households and parts of which are located in two or more municipalities, one of which has a population of more than 1.6 million.

Added by Acts 1997, 75th Leg., ch. 1339, Sec. 2, eff. Sept. 1, 1997.

Sec. 43.079. CONSENT REQUIREMENT FOR ANNEXATION OF AREA IN CERTAIN CONSERVATION AND RECLAMATION DISTRICTS. (a) This section applies only to a conservation and reclamation district, including a municipal utility district, that:

(1) is located wholly in more than one municipality, but on April 1, 1971, was not wholly in more than one municipality;

(2) was created or exists under Section 59, Article XVI, Texas Constitution;

(3) provides or has provided a fresh water supply, sanitary sewer services, and drainage services; and

(4) was not, on April 1, 1971, a party to a contract

providing for a federal grant for research and development under 33 U.S.C. Sections 1155(a)(2) and (d).

(b) A municipality that has annexed area in the district is not required to obtain the consent of any municipality to annex additional area located wholly in the district other than the consent of the other municipalities that have annexed area in the district and have extraterritorial jurisdiction over the area proposed to be annexed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.102, eff. Sept. 1, 2001.

Sec. 43.080. MUNICIPAL BONDS USED TO CARRY OUT PURPOSES OF ABOLISHED CONSERVATION AND RECLAMATION DISTRICT. (a) This section applies only to each municipality that under any other law, including Section 43.075, abolishes a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, including a water control and improvement district, fresh water supply district, or municipal utility district.

(b) If, before its abolition, the district voted to issue bonds to provide waterworks, sanitary sewer facilities, or drainage facilities and if some or all of the bonds were not issued, sold, and delivered before the abolition, the governing body of the municipality may issue and sell municipal bonds in an amount not to exceed the amount of the unissued district bonds to carry out the purposes for which the district bonds were voted.

(c) The bonds must be authorized by ordinance of the governing body of the municipality. The ordinance must provide for the levy of taxes on all taxable property in the municipality to pay the principal of and interest on the bonds when due. The bonds must be sold at not less than par value and accrued interest, and must mature, bear interest, and be subject to approval by the attorney general and to registration by the comptroller of public accounts as provided by law for other general obligation bonds of the municipality.

(d) A bond that is approved, registered, and sold as provided by this section is incontestable.

(e) This section repeals a municipal charter provision to the extent of a conflict with this section. This section does not affect

the authority of a municipality to issue bonds for other purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.081. CONTINUATION OF CERTAIN MUNICIPAL WATER BOARDS ON ANNEXATION OF WATER CONTROL AND IMPROVEMENT DISTRICT. (a) A municipal water board that was created by Section 6, Chapter 134, Acts of the 52nd Legislature, Regular Session, 1951, and that continues to exist to preserve a vested right created under that law, remains in existence with full power after the municipality annexes all the area of the water control and improvement district whose functions the municipality assumed and delegated to the water board, so long as the land located in the board's jurisdiction is used for farming, ranching, or orchard purposes.

(b) The municipal water board shall select and designate one or more depositories for the proceeds of the maintenance and water charges and other charges levied by the water control and improvement district and for any other income or other funds of the district. The water board may select a depository regardless of the fact that one or more members of the board are members of the board of directors or are stockholders of the depository.

(c) The funds of the water control and improvement district may be kept in one or more separate accounts in the depository if the funds deposited in each separate account are to be used for a different designated purpose from the funds deposited in any other separate account. The funds deposited in the depository must be insured by an official agency of the United States and must be at least as well insured and protected as funds deposited in the official municipal depository of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.082. ANNEXATION BY CERTAIN MUNICIPALITIES OF LAND OWNED BY NAVIGATION DISTRICT. A municipality with a population of less than 30,000, that is in a county that borders the Gulf of Mexico and that is adjacent to a county with a population of one million or more, and that seeks to annex land owned by a navigation district operating under Section 59, Article XVI, Texas Constitution, must have the consent of the district to annex the land.

Added by Acts 2007, 80th Leg., R.S., Ch. 175 (H.B. 1312), Sec. 1, eff. May 23, 2007.

Sec. 43.083. ANNEXATION BY CERTAIN MUNICIPALITIES THAT OPERATE MUNICIPALLY OWNED WATER UTILITY. (a) This section applies only to a municipality that:

(1) operates a municipally owned water utility; and

(2) is a party to a strategic partnership agreement:

(A) with a municipal utility district; and

(B) under which the municipality contemplates annexing 400 or more water or wastewater connections that are not located in the district.

(b) A municipality authorized or required to annex a district for full purposes under a strategic partnership agreement under Section 43.0751:

(1) may not annex the district without also annexing all of the unincorporated area served by the district that is located in the municipality's extraterritorial jurisdiction; and

(2) must receive approval for the annexations under the agreement and Subdivision (1) as required by Subchapter C-3, C-4, or C-5, as applicable, before annexation.

Added by Acts 2019, 86th Leg., R.S., Ch. 632 (S.B. 1468), Sec. 2, eff. June 10, 2019.

SUBCHAPTER E. ANNEXATION PROVISIONS RELATING TO RESERVOIRS, AIRPORTS, STREETS, AND CERTAIN OTHER AREAS

Sec. 43.101. ANNEXATION OF MUNICIPALLY OWNED RESERVOIR. (a) A general-law municipality may annex:

(1) a reservoir owned by the municipality and used to supply water to the municipality;

(2) any land contiguous to the reservoir and subject to an easement for flood control purposes in favor of the municipality; and

(3) the right-of-way of any public road or highway connecting the reservoir to the municipality by the most direct route.

(b) The municipality may annex the area if:

(1) none of the area is more than five miles from the municipality's boundaries;

(2) none of the area is in another municipality's extraterritorial jurisdiction; and

(3) the area, excluding road or highway right-of-way, is less than 600 acres.

(c) A municipality may annex the area described by this section without the consent of any owners or residents of the area under the procedures prescribed by Subchapter C-1 if there are no owners other than the municipality or residents of the area.

(d) The municipality may annex the area even if part of the area is outside the municipality's extraterritorial jurisdiction or is narrower than the minimum width prescribed by Section 43.054. Section 43.055, which relates to the amount of area a municipality may annex in a calendar year, does not apply to the annexation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(i), eff. Aug. 28, 1989. Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 29, eff. December 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 30, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.12, eff. May 24, 2019.

Sec. 43.102. ANNEXATION OF MUNICIPALLY OWNED AIRPORT. (a) A municipality may annex:

(1) an airport owned by the municipality; and

(2) the right-of-way of any public road or highway connecting the airport to the municipality by the most direct route.

(b) The municipality may annex the area if:

(1) none of the area is more than eight miles from the municipality's boundaries; and

(2) each municipality in whose extraterritorial jurisdiction the airport is located agrees to the annexation.

(c) A municipality may annex the area described by this section without the consent of any owners or residents of the area under the procedures prescribed by Subchapter C-1 if there are no owners other

than the municipality or residents of the area.

(d) The municipality may annex the area even if the area is outside the municipality's extraterritorial jurisdiction, is in another municipality's extraterritorial jurisdiction, or is narrower than the minimum width prescribed by Section 43.054. Section 43.055, which relates to the amount of area a municipality may annex in a calendar year, does not apply to the annexation.

(e) The annexation under this section of area outside the extraterritorial jurisdiction of the annexing municipality does not expand the extraterritorial jurisdiction of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(j), eff. Aug. 28, 1989. Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 31, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.13, eff. May 24, 2019.

Sec. 43.1025. ANNEXATION OF NONCONTIGUOUS MUNICIPALLY OWNED AIRPORT BY CERTAIN MUNICIPALITIES. (a) This section applies only to a home-rule municipality that has a population of less than 13,000 and is located primarily in a county with a population of more than 3.3 million.

(b) The municipality may annex the unincorporated area of an airport owned by the municipality that is noncontiguous to the boundaries of the municipality regardless of whether the airport is located in the municipality's extraterritorial jurisdiction. The annexation may include any unincorporated area located in the proximity of the airport.

(c) The area described by Subsection (b) may be annexed under the requirements prescribed by Subchapter C-3, C-4, or C-5, as applicable, but the annexation may not occur unless each municipality in whose extraterritorial jurisdiction the area may be located:

(1) consents to the annexation; and

(2) reduces its extraterritorial jurisdiction over the area as provided by Section 42.023.

(d) If the area proposed for annexation is completely surrounded by territory under the jurisdiction of another

municipality, regardless of whether that jurisdiction is full-purpose, limited-purpose, or extraterritorial, that municipality must find that the annexation is in the public interest.

(e) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(a), eff. December 1, 2017.

(f) The annexation of area under this section outside the extraterritorial jurisdiction of the annexing municipality does not expand the extraterritorial jurisdiction of the municipality.

(g) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(a), eff. December 1, 2017.

Added by Acts 2007, 80th Leg., R.S., Ch. 423 (S.B. 1349), Sec. 1, eff. June 15, 2007.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 63, eff. September 1, 2011.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 32, eff. December 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(a), eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.06, eff. May 24, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 124, eff. September 1, 2023.

Sec. 43.1055. ANNEXATION OF ROAD RIGHTS-OF-WAY ON REQUEST OR WITHOUT OBJECTION OF OWNER OR MAINTAINING POLITICAL SUBDIVISION. (a) Notwithstanding any other law, a municipality may by ordinance annex under the procedures prescribed by Subchapter C-1:

(1) a road right-of-way on request of the owner of the right-of-way or the governing body of the political subdivision that maintains the right-of-way; or

(2) a road right-of-way described by Subsection (b).

(b) A municipality may annex a road right-of-way provided that the right-of-way:

(1) is contiguous to the municipality's boundary or to an area being simultaneously annexed by the municipality;

(2) either:

(A) is parallel to the boundary of the municipality or

to an area being simultaneously annexed by the municipality; or

(B) connects the boundary of the municipality to an area being simultaneously annexed by the municipality or to another point on the boundary of the municipality; and

(3) does not result in the municipality's boundaries surrounding any area that was not already in the municipality's extraterritorial jurisdiction immediately before the annexation of the right-of-way.

(c) A municipality may annex a right-of-way under this section only if:

(1) the owner of the right-of-way or the governing body of the political subdivision that maintains the right-of-way requests the annexation of the right-of-way in writing; or

(2) both:

(A) the municipality provides written notice of the annexation to the owner of the right-of-way or the governing body of the political subdivision that maintains the right-of-way not later than the 61st day before the date of the proposed annexation; and

(B) the owner of the right-of-way or the governing body of the political subdivision that maintains the right-of-way does not submit a written objection to the municipality before the date of the proposed annexation.

(d) If a right-of-way proposed to be annexed under this section is owned or maintained by a governmental body, then that governmental body may specify, by notifying the municipality in writing, the location at which a municipality must deliver notice under Subsection (c).

(e) Section 43.054 does not apply to the annexation of a right-of-way under this section.

(f) Notwithstanding Section 42.021, the annexation of a road right-of-way described by Subsection (b)(2)(B) does not expand the annexing municipality's extraterritorial jurisdiction.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 36, eff. December 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.14, eff. May 24, 2019.

Acts 2021, 87th Leg., R.S., Ch. 560 (S.B. 374), Sec. 1, eff. June 14, 2021.

Acts 2023, 88th Leg., R.S., Ch. 121 (H.B. 586), Sec. 1, eff. May 23, 2023.

Sec. 43.1056. ANNEXATION OF CONTIGUOUS OR CONNECTING RIGHTS-OF-WAY. (a) Notwithstanding any other law, a municipality that is annexing an area under Subchapter C-3, C-4, C-5, or D may also annex with the area the right-of-way of a street, highway, alley, or other public way or of a railway line, spur, or roadbed, that is:

(1) contiguous and runs parallel to the municipality's boundaries; and

(2) contiguous to the area being annexed under Subchapter C-3, C-4, C-5, or D.

(b) A municipality may annex a right-of-way under this section only if:

(1) the municipality provides written notice of the annexation to the owner of the right-of-way, through the owner's registered agent, if applicable, not later than the 61st day before the date of the proposed annexation; and

(2) the owner of the right-of-way does not submit a written objection to the municipality before the date of the proposed annexation.

(c) If the owner of a right-of-way proposed to be annexed under this section is a governmental entity, the entity may specify the location at which a municipality must deliver notice under Subsection (b).

(d) Section 43.054 does not apply to the annexation of a right-of-way under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 560 (S.B. 374), Sec. 2, eff. June 14, 2021.

Sec. 43.1057. ANNEXATION OF AREA ADJACENT TO CONTIGUOUS OR CONNECTING RAILROAD RIGHT-OF-WAY. (a) Notwithstanding any other law, a municipality that is annexing an area under Subchapter C-3, C-4, C-5, or D may also annex with the initial area an additional area if:

(1) the area is adjacent to a right-of-way of a railway line, spur, or other railroad property that is:

(A) contiguous and runs parallel to the municipality's boundaries; and

(B) contiguous to the area being annexed under Subchapter C-3, C-4, C-5, or D; and

(2) each owner of the area agrees to the annexation by the municipality.

(b) For purposes of Subsection (a) or other law with a municipal boundary contiguous requirement, including a municipal charter or ordinance, an area adjacent or contiguous to the initial area being annexed under Subsection (a) is considered adjacent and contiguous to the annexing municipality.

(c) Section 43.054 does not apply to the annexation under this section of the additional area described by Subsection (a).

Added by Acts 2025, 89th Leg., R.S., Ch. 173 (S.B. 250), Sec. 1, eff. May 27, 2025.

Sec. 43.106. ANNEXATION OF COUNTY ROADS REQUIRED IN CERTAIN CIRCUMSTANCES. (a) A municipality that proposes to annex any portion of a county road or territory that abuts a county road must also annex the entire width of the county road and the adjacent right-of-way on both sides of the county road.

(b) If a road annexed under Subsection (a) is a gravel road, the county retains control of granting access to the road and its right-of-way from property that:

(1) is not located in the boundaries of the annexing municipality; and

(2) is adjacent to the road and right-of-way.

Added by Acts 2001, 77th Leg., ch. 393, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1052 (H.B. 1949), Sec. 2, eff. September 1, 2015.

SUBCHAPTER F. LIMITED PURPOSE ANNEXATION

Sec. 43.121. AUTHORITY OF POPULOUS HOME-RULE MUNICIPALITIES TO ANNEX FOR LIMITED PURPOSES; OTHER AUTHORITY NOT AFFECTED. (a) Subject to Section 43.1211, the governing body of a home-rule municipality with more than 225,000 inhabitants by ordinance may

annex an area for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area.

(b) To be annexed for limited purposes, an area must be:

(1) within the municipality's extraterritorial jurisdiction; and

(2) contiguous to the corporate boundaries of the municipality, unless the owner of the area consents to noncontiguous annexation.

(c) The provisions of this subchapter, other than Sections 43.1211 and 43.136, do not affect the authority of a municipality to annex an area for limited purposes under Section 43.136 or any other statute granting the authority to annex for limited purposes.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.
Amended by Acts 1989, 71st Leg., ch. 822, Sec. 2, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 1167, Sec. 13, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 37, eff. December 1, 2017.

Sec. 43.1211. USE OF CONSENT PROCEDURES TO ANNEX FOR LIMITED PURPOSES. Except as provided by Section 43.0751, beginning December 1, 2017, a municipality described by Section 43.121(a) may annex an area for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area using the procedures under Subchapter C-3, C-4, or C-5, as applicable.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 38, eff. December 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.07, eff. May 24, 2019.

Sec. 43.122. CERTAIN STRIP ANNEXATIONS PROHIBITED. A municipality may not annex for limited purposes any strip of territory, including a strip following the course of a road, highway, river, stream, or creek, that is, at its narrowest point, less than 1,000 feet in width and is located farther than three miles from the preexisting boundaries of the municipality, unless the area is

annexed under Section 43.129.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.
Amended by Acts 1989, 71st Leg., ch. 822, Sec. 2, eff. Sept. 1, 1989.

Sec. 43.123. REPORT REGARDING PLANNING STUDY AND REGULATORY PLAN. (a) Before the 10th day before the date the first hearing required by Section 43.124 is held, the municipality must prepare a report regarding the proposed annexation of an area for limited purposes and make the report available to the public. The report must contain the results of the planning study conducted for the area in accordance with Subsection (c) and must contain the regulatory plan prepared for the area in accordance with Subsection (d).

(b) Notice of the availability of the report shall be published at least twice in a newspaper of general circulation in the area proposed to be annexed. The notice may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.

(c) The planning study must:

(1) project the kinds and levels of development that will occur in the area in the next 10 years if the area is not annexed for limited purposes and also if the area is annexed for limited purposes;

(2) describe the issues the municipality considers to give rise to the need for the annexation of the area for limited purposes and the public benefits to result from the limited-purpose annexation;

(3) analyze the economic, environmental, and other impacts the annexation of the area for limited purposes will have on the residents, landowners, and businesses in the area; and

(4) identify the proposed zoning of the area on annexation and inform the public that any comments regarding the proposed zoning will be considered at the public hearings for the proposed limited-purpose annexation.

(d) The regulatory plan must:

(1) identify the kinds of land use and other regulations that will be imposed in the area if it is annexed for limited purposes; and

(2) state the date on or before which the municipality

shall annex the area for full purposes, which date must be within three years after the date the area is annexed for limited purposes.

(e) The deadline imposed by Subsection (d)(2) does not apply to an area that:

(1) is owned by the United States, this state, or a political subdivision of this state;

(2) is located outside the boundaries of a water control and improvement district or a municipal utility district; and

(3) is annexed for limited purposes in connection with a strategic partnership agreement under Section 43.0751.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 2003, 78th Leg., ch. 248, Sec. 4, eff. June 18, 2003.

Sec. 43.124. PUBLIC HEARINGS. (a) Before instituting proceedings for annexing an area for limited purposes, the governing body of the municipality must hold two public hearings on the proposed annexation. Each member of the public who wishes to present testimony or evidence regarding the proposed limited-purpose annexation must be given the opportunity to do so. At the hearing, the municipality shall hear and consider the appropriateness of the application of rural and urban ordinances in the area to be annexed for limited purposes.

(b) The hearings must be held on or after the 40th day but before the 20th day before the date the annexation proceedings are instituted. A notice of the hearings must be published in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice must be in the format prescribed by Section 43.123(b). Before the date of each hearing, the notice must be published at least once on or after the 20th day before the hearing date and must contain:

(1) a statement of the purpose of the hearing;

(2) a statement of the date, time, and place of the hearing; and

(3) a general description of the location of the area proposed to be annexed for limited purposes.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.125. ADOPTION OF REGULATORY PLAN. (a) At the time the governing body of the municipality adopts an ordinance annexing an area for limited purposes, the governing body must also adopt by ordinance a regulatory plan for the area.

(b) The adopted regulatory plan must be the same as the regulatory plan prepared under Section 43.123 unless the governing body finds and states in the ordinance the reasons for the adoption of a different regulatory plan.

(c) The governing body by ordinance may change a regulatory plan adopted under Subsection (b) if, in the ordinance making the change, the governing body finds and states the reasons for the adoption of the change.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.126. PERIOD FOR COMPLETION OF ANNEXATION. The annexation of an area for limited purposes must be completed within 90 days after the date the governing body institutes the annexation proceedings.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.127. ANNEXATION FOR FULL PURPOSES. (a) Except as provided by Section 43.123(e), on or before the date prescribed by the regulatory plan under Section 43.123(d)(2), the municipality must annex the area for full purposes. This requirement may be waived and the date for full-purpose annexation postponed by written agreement between the municipality and a majority of the affected landowners. A written agreement to waive the municipality's obligation to annex the area for full purposes binds all future owners of land annexed for limited purposes pursuant to that waiver.

(b) In each of the three years for which an area may be annexed for limited purposes, the municipality must take the steps prescribed by this subsection toward the full-purpose annexation of the area. By the end of the first year after the date an area is annexed for limited purposes, the municipality must develop a land use and intensity plan as a basis for services and capital improvements projects planning. By the end of the second year after that date, the municipality must include the area in the municipality's long-

range financial forecast and in the municipality's program to identify future capital improvements projects. By the end of the third year after that date, the municipality must include in its adopted capital improvements program the projects intended to serve the area and must identify potential sources of funding for capital improvements.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 822, Sec. 2, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 248, Sec. 5, eff. June 18, 2003.

Sec. 43.128. JUDICIAL REMEDIES: FORCED ANNEXATION OR DISANNEXATION. (a) If the municipality fails to annex the area for full purposes as required by Section 43.127(a), any affected person may petition the district court to compel the annexation of the area for full purposes or the disannexation of the area. On finding that the municipality has failed to annex the area as required by Section 43.127(a), the court shall enter an order requiring the municipality to annex the area for full purposes or to disannex the area. If an area is disannexed, the area may not be annexed again by the municipality for five years.

(b) If the municipality fails to take the steps required by Section 43.127(b), any affected person may petition the district court to compel the annexation of a particular area for full purposes or the disannexation of the area. On finding that the municipality has failed to take the steps required by Section 43.127(b), the court shall enter an order requiring the municipality to annex the area for full purposes or to disannex the area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.129. CONSENSUAL ANNEXATION. The municipality may annex for limited purposes any land for which the landowner requests annexation and provides to the municipality before the effective date of the annexation the landowner's written consent to annexation for limited purposes. With respect to any larger parcels of property, consent of the owners of at least 51 percent of the total affected territory must be evidenced by appropriate signatures on the limited-purpose annexation request. A landowner's written consent to

limited-purpose annexation is binding on all future owners of land in the area annexed for limited purposes pursuant to the consent.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 822, Sec. 2, eff. Sept. 1, 1989.

Sec. 43.130. EFFECT OF ANNEXATION ON VOTING RIGHTS, ELIGIBILITY FOR OFFICE, AND TAXING AUTHORITY. (a) The qualified voters of an area annexed for limited purposes are entitled to vote in municipal elections regarding the election or recall of members of the governing body of the municipality, the election or recall of the controller, if the office of controller is an elective position of the municipality, and the amendment of the municipal charter. The voters may not vote in any bond election. On or after the 15th day but before the fifth day before the date of the first election held in which the residents of an area annexed for limited purposes are entitled to vote, the municipality shall publish notice in the form of a quarter-page advertisement in a newspaper of general circulation in the municipality notifying the residents that they are eligible to vote in the election and stating the location of all polling places for the residents.

(b) A resident of an area annexed for limited purposes is not eligible to be a candidate for or to be elected to a municipal office.

(c) The municipality may not impose a tax on any property in an area annexed for limited purposes or on any resident of the area for an activity occurring in the area. The municipality may impose reasonable charges, such as building inspection and permit fees, on residents or landowners for actions or procedures performed by the municipality in connection with the limited purposes for which the area is annexed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 2003, 78th Leg., ch. 664, Sec. 1, eff. Sept. 1, 2003.

Sec. 43.131. EFFECT OF ANNEXATION ON EXTRATERRITORIAL JURISDICTION. The annexation of an area for limited purposes does not extend the municipality's extraterritorial jurisdiction.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.132. MUNICIPAL INCORPORATION IN ANNEXED AREA. A municipality may not be incorporated in an area annexed for limited purposes unless the annexing municipality gives its consent.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.136. AUTHORITY OF SPECIAL-LAW MUNICIPALITY TO ANNEX FOR LIMITED PURPOSES ALONG NAVIGABLE STREAM. (a) The governing body of a special-law municipality located along or on a navigable stream may extend the boundaries of the municipality to include the area designated by Subsection (b) only to:

(1) improve navigation on the stream by the United States, the municipality, or a navigation or other improvement district; and

(2) establish and maintain wharves, docks, railway terminals, side tracks, warehouses, or other facilities or aids relating to navigation or wharves.

(b) The municipality by ordinance may extend the boundaries to include an area composed of the navigable stream and the land on each side of the stream. The area may not exceed 2,500 feet in width on either side of the stream as measured from the thread of the stream and may not exceed 20 miles in length as measured in a direct line from the ordinary municipal boundaries, either above or below the boundaries, or both. Consequently, the area subject to the boundary extension is a strip 5,000 feet wide and 20 miles in length, or as much of that strip as the governing body considers advisable to add to the municipality. The boundaries are extended on the adoption of the ordinance.

(c) The governing body may acquire land in the added area by purchase, condemnation, or gift. If condemnation is used, the municipality shall follow the condemnation procedure applying to the condemnation of land by the municipality for the purchase of streets.

(d) This section does not authorize the municipality to extend its boundaries to include area that is part of or belongs to another municipality.

(e) A municipality may not tax the property over which the boundaries are extended under this section unless the property is

within the general municipal boundaries.

(f) After the adoption of the ordinance extending the municipal boundaries, the municipality may fully regulate navigation, wharfage, including wharfage rates, and all facilities, conveniences, and aids to navigation or wharfage. The municipality may adopt ordinances, including those imposing criminal penalties, and may otherwise police navigation on the stream and the use of the wharves or other facilities and aids to navigation or wharfage.

(g) The municipality may designate all or part of the added area as an industrial district, as the term is customarily used, and may treat the designated area in a manner considered by the governing body to be in the best interest of the municipality. The governing body may make written contracts or agreements with the owners of land in the industrial district, to guarantee the continuation of the limited purpose annexation status of the district and its immunity from general purpose annexation for a period not to exceed 10 years. The contract or agreement may contain other terms considered appropriate by the parties. The governing body and landowners may renew or extend the contract for successive periods not to exceed 10 years each.

(h) Notwithstanding any other law, including a municipal ordinance or charter provision, the governing body by ordinance may change the status of an area previously annexed for general purposes to limited purpose annexation status governed by this section if:

(1) the area previously annexed at any time was eligible to be included within the municipal boundaries under Subsection (b);

(2) the owners of the area petition the governing body for the change in status; and

(3) the governing body includes the area in an industrial district designated as provided by Subsection (g) or any other law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 816, Sec. 1, eff. June 17, 1997.

SUBCHAPTER G. DISANNEXATION

Sec. 43.141. DISANNEXATION FOR FAILURE TO PROVIDE SERVICES. (a) A majority of the property owners of an area, including one or more lots, tracts, or parcels, or a portion of a lot, tract, or parcel, may petition the governing body of the municipality to

disannex the area if the municipality fails or refuses to provide the services described under Subsection (b)(1) or (3) or to cause those services to be provided to the area:

(1) if the area was annexed under Subchapter C-1, within the period specified by Section 43.056 or by the service plan prepared for the area under that section;

(2) if the area was annexed under Subchapter C-3, C-4, or C-5, within the period specified by the written agreement under Section 43.0672 or the resolution under Section 43.0682 or 43.0692, as applicable; or

(3) notwithstanding Section 43.0505, if any part of the area is located adjacent to a navigable waterway and the area did not become part of the municipality in compliance with and under Subchapter C.

(b) If the governing body fails or refuses to disannex the area within 60 days after the date of the receipt of the petition, any one or more of the signers of the petition may bring a cause of action in a district court of the county in which the area is principally located to request that the area be disannexed. On the filing of an answer by the governing body, and on application of either party, the case shall be advanced and heard without further delay in accordance with rules for expedited actions under the Texas Rules of Civil Procedure. The district court shall enter an order disannexing the area and award attorney's fees to the signers of the petition if the court finds that a valid petition was filed with the municipality and that the municipality:

(1) failed to perform its obligations in accordance with:

(A) the service plan under Section 43.056;

(B) the written agreement entered into under Section 43.0672; or

(C) the resolution adopted under Section 43.0682 or 43.0692, as applicable;

(2) failed to perform in good faith; or

(3) for a petition covering an area described by Subsection (a)(3), has not connected the majority of the properties in the area covered by the petition, regardless of whether the area was annexed by the municipality, to the municipality's water and wastewater systems, if any other area in the municipality is connected to the municipality's water and wastewater systems.

(c) If the area is disannexed under this section, it may not be

annexed again within 10 years after the date of the disannexation.

(d) The petition for disannexation must:

(1) be written;

(2) request the disannexation;

(3) be signed in ink or indelible pencil by the appropriate property owners;

(4) contain a note made by each property owner stating the person's residence address;

(5) describe the area to be disannexed and have a plat, survey, or other likeness of the area attached; and

(6) be presented to the secretary of the municipality.

(e) The signatures to the petition need not be appended to one paper.

(f) For an area annexed under this chapter, before the petition is circulated among the property owners, notice of the petition must be given by posting a copy of the petition for 10 days in three public places in the area and by publishing a copy of the petition once in a newspaper of general circulation serving the area before the 15th day before the date the petition is first circulated. Proof of the posting and publication must be made by attaching to the petition presented to the secretary:

(1) the sworn affidavit of any property owner who signed the petition, stating the places and dates of the posting; and

(2) the sworn affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication.

(g) If an area described by Subsection (a)(3) is disannexed in accordance with this section, the landowners of the area are not eligible for a refund of taxes or fees for the area under Section 43.148.

(h) The disannexation of an area under this section may not include land that comprises the bed of a navigable waterway.

(i) This section does not apply to an area located in an area previously designated as an industrial district under Section 42.044.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1167, Sec. 14, eff. Sept. 1, 1999. Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 39, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.15, eff. May 24, 2019.

Acts 2025, 89th Leg., R.S., Ch. 235 (S.B. 1844), Sec. 1, eff. September 1, 2025.

Sec. 43.142. DISANNEXATION ACCORDING TO MUNICIPAL CHARTER IN HOME-RULE MUNICIPALITY. A home-rule municipality may disannex an area in the municipality according to rules as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.143. DISANNEXATION BY PETITION AND ELECTION IN GENERAL-LAW MUNICIPALITY. (a) When at least 50 qualified voters of an area located in a general-law municipality sign and present a petition to the mayor of the municipality that describes the area by metes and bounds and requests that the area be declared no longer part of the municipality, the mayor shall order an election on the question in the municipality. The election shall be held on the first uniform election date prescribed by Chapter 41, Election Code, that occurs after the date on which the petition is filed and that affords enough time to hold the election in the manner required by law.

(b) When a majority of the votes received in the election favor discontinuing the area as part of the municipality, the mayor shall declare that the area is no longer a part of the municipality and shall enter an order to that effect in the minutes or records of the governing body of the municipality. The area ceases to be a part of the municipality on the date of the order. However, the area may not be discontinued as part of the municipality if the discontinuation would result in the municipality having less area than one square mile or one mile in diameter around the center of the original municipal boundaries.

(c) If the area withdraws from a municipality as provided by this section and if, at the time of the withdrawal, the municipality owes any debts, by bond or otherwise, the area is not released from its pro rata share of that indebtedness. The governing body shall continue to levy a property tax each year on the property in the area

at the same rate that is levied on other property in the municipality until the taxes collected from the area equal its pro rata share of the indebtedness. Those taxes may be charged only with the cost of levying and collecting the taxes, and the taxes shall be applied exclusively to the payment of the pro rata share of the indebtedness. This subsection does not prevent the inhabitants of the area from paying in full at any time their pro rata share of the indebtedness.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.144. DISANNEXATION OF SPARSELY POPULATED AREA IN GENERAL-LAW MUNICIPALITY. (a) The mayor and governing body of a general-law municipality by ordinance may discontinue an area as a part of the municipality if:

(1) the area consists of at least 10 acres contiguous to the municipality; and

(2) the area:

(A) is uninhabited; or

(B) contains fewer than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre.

(b) On adoption of the ordinance, the mayor shall enter in the minutes or records of the governing body an order discontinuing the area. The area ceases to be a part of the municipality on the date of the entry of the order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.145. DISANNEXATION OF UNIMPROVED AREA OR NONTAXABLE AREA IN CERTAIN MUNICIPALITIES. (a) The governing body of a municipality by ordinance may discontinue an area as a part of the municipality if:

(1) the municipality has a population of 4,000 or more and is located in a county with a population of more than 205,000, and the area is composed of at least three contiguous acres that are unimproved and adjoining the municipal boundaries; or

(2) the municipality has a population of 596,000 or more, and the area is an improved area that is not taxable by the municipality and is contiguous to the municipal boundary.

(b) On adoption of the ordinance, the governing body shall enter in the minutes or records of the municipality an order discontinuing the area. The area ceases to be a part of the municipality on the date of the entry of the order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.146. DISANNEXATION OF LAND IN A MUNICIPAL UTILITY DISTRICT. Notwithstanding any provision of any other law related to the annexation or disannexation of territory, including but not limited to the requirement that the minimum width of any territory annexed be at least 1,000 feet in width, a municipality that has exercised limited purpose annexation may disannex any land located within a municipal utility district. Such disannexation shall not affect the validity of the annexation of other territory. Such municipality may refund any taxes paid or waive any taxes due to the municipality by the owners of the property disannexed pursuant to the provisions of this section.

Added by Acts 1989, 71st Leg., ch. 1058, Sec. 5, eff. Sept. 1, 1989.

Sec. 43.1463. DISANNEXATION OF AREAS ANNEXED DURING TRANSITION FROM NONCONSENT TO CONSENT ANNEXATION MODEL. (a) This section applies only to an area:

(1) for which an annexation was:

(A) initiated by a municipality with a population of 500,000 or more; and

(B) finalized for full purposes between March 3, 2015, and December 1, 2017; and

(2) that had a population of greater than zero on the date the area was annexed.

(b) This section does not apply to a municipality:

(1) whose extraterritorial jurisdiction is adjacent to or includes all or part of a federal military installation in active use as of May 1, 2023; or

(2) in which all or part of a federal military installation in active use as of May 1, 2023, is located.

(c) A municipality shall hold an election in an area described by Subsection (a) on the question of disannexing the area from the

municipality. The municipality:

(1) may not use public money on promotional campaigns or advocacy related to the election; and

(2) shall ensure that the ballot proposition for the election:

(A) describes the area to be disannexed;

(B) identifies the area by the commonly used name of the area, if applicable;

(C) identifies the entities that will provide law enforcement, fire, and emergency services after disannexation;

(D) describes the effect of disannexation on ad valorem taxes and fees in the area; and

(E) describes the effect of disannexation on special districts located in the area.

(d) A municipality shall disannex an area described by Subsection (a), including residential and commercial property in the area, if the voters approve the disannexation in the election held under Subsection (c).

(e) A municipality shall retain ownership of any infrastructure, including a water treatment and storage facility, transferred to the municipality from a special district as part of the annexation of an area disannexed under this section.

(f) After an area is disannexed under this section:

(1) a special district located in and serving the area may be dissolved only if the members of the governing body of the district elect to dissolve the district after the disannexation; and

(2) an emergency services district located in or adjacent to the area shall provide services to the area.

(f-1) A limited district that was created by the conversion of a special district under a strategic partnership agreement and is located in and serving an area that is disannexed under this section may exercise all powers and duties granted to the former special district by law in the portion of the disannexed area located in the district, notwithstanding the strategic partnership agreement or other agreement executed by the district and the disannexing municipality before the disannexation.

(g) A disannexation under this section does not authorize the impairment of a municipal debt obligation and, to the extent applicable, the area is not released from its pro rata share of that indebtedness. The municipality shall continue to impose a property

tax each year on the property in the area at the same rate that is imposed on other property in the municipality until the taxes collected from the area equal its pro rata share of the indebtedness. Those taxes may be charged only with the cost of imposing and collecting the taxes, and the taxes shall be applied exclusively to the payment of the pro rata share of the indebtedness. This subsection does not prevent the inhabitants of the area from paying in full at any time their pro rata share of the indebtedness.

(h) Section 43.148 does not apply to an area disannexed under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 521 (H.B. 3053), Sec. 1, eff. September 1, 2023.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 110 (S.B. 2419), Sec. 1, eff. May 24, 2025.

Sec. 43.1465. DISANNEXATION FROM DEFUNDING MUNICIPALITY. (a) In this section, "defunding municipality" means a home-rule municipality that is considered to be a defunding municipality under Chapter 109.

(b) On the next uniform election date that occurs after the date on which the criminal justice division of the governor's office issues a written determination that a municipality is a defunding municipality and the time required by Section 3.005, Election Code, the defunding municipality shall hold a separate election in each area annexed in the preceding 30 years by the defunding municipality on the question of disannexing the area.

(c) The defunding municipality shall immediately by ordinance disannex an area for which a majority of the votes received in the election held under Subsection (b) favor disannexation.

(d) If an area is disannexed under Subsection (c), the defunding municipality may not attempt to annex the area before the 10th anniversary of the date on which the criminal justice division of the governor's office issues a written determination in accordance with Section 109.005 finding that the defunding municipality has reversed the reduction described by Section 109.003(1).

(e) A defunding municipality holding an election under Subsection (b) may not use public funds on informational campaigns

relating to the election.

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 2.02, eff. September 1, 2021.

Sec. 43.147. WIDTH REQUIREMENT FOR DISANNEXATION. (a) A municipality disannexing a road or highway shall also disannex a strip of area that is equal in size to the minimum area that the municipality is required to annex in order to comply with the width requirements of Section 43.054 unless such disannexation is undertaken with the mutual agreement of the county government and the municipality.

(b) The strip of area to be disannexed must:

(1) be adjacent to either side of the road or highway; and

(2) follow the course of the road or highway.

Added by Acts 1995, 74th Leg., ch. 513, Sec. 1, eff. Sept. 1, 1995.

Sec. 43.148. REFUND OF TAXES AND FEES. (a) If an area is disannexed, the municipality disannexing the area shall refund to the landowners of the area the amount of money collected by the municipality in property taxes and fees from those landowners during the period that the area was a part of the municipality less the amount of money that the municipality spent for the direct benefit of the area during that period.

(b) A municipality shall proportionately refund the amount under Subsection (a) to the landowners according to a method to be developed by the municipality that identifies each landowner's approximate pro rata payment of the taxes and fees being refunded.

(c) A municipality required to refund money under this section shall refund the money to current landowners in the area not later than the 180th day after the date the area is disannexed. Money that is not refunded within the period prescribed by this subsection accrues interest at the rate of:

(1) six percent each year after the 180th day and until the 210th day after the date the area is disannexed; and

(2) one percent each month after the 210th day after the date the area is disannexed.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 15, eff. Sept. 1, 1999.

SUBCHAPTER H. ALTERATION OF ANNEXATION STATUS

Sec. 43.201. DEFINITIONS. In this subchapter:

(1) "Consent agreement" means an agreement between a district and a municipality under Section 42.042.

(2) "Limited-purpose annexation" means annexation authorized under Section 43.121.

Added by Acts 1995, 74th Leg., ch. 787, Sec. 2, eff. Sept. 1, 1995.

Sec. 43.202. APPLICABILITY. This subchapter applies to:

(1) a municipal utility district operating under Chapter 54, Water Code, that:

(A) was annexed for full purposes by a municipality as a condition of the municipality granting consent to the creation of the district;

(B) was annexed by the municipality on the same date as at least five other districts; and

(C) has not had on the eighth anniversary of the district's annexation by the municipality more than 10 percent of the housing units or commercial square footage authorized in its consent agreement constructed; and

(2) a municipality that has:

(A) annexed territory for limited purposes;

(B) disannexed territory that previously was annexed for limited purposes; and

(C) previously disannexed territory in a municipal utility district originally annexed for full purposes on the same date as a district to which this section applies.

Added by Acts 1995, 74th Leg., ch. 787, Sec. 2, eff. Sept. 1, 1995.

Sec. 43.203. ALTERATION OF ANNEXATION STATUS. (a) Notwithstanding any other law, the governing body of a district by resolution may petition a municipality to alter the annexation status of land in the district from full-purpose annexation to limited-purpose annexation.

(b) On receipt of the district's petition, the governing body of the municipality shall enter into negotiations with the district for an agreement to alter the status of annexation that must:

(1) specify the period, which may not be less than 10 years beginning on January 1 of the year following the date of the agreement, in which limited-purpose annexation is in effect;

(2) provide that, at the expiration of the period, the district's annexation status will automatically revert to full-purpose annexation without following procedures provided by Section 43.014 or any procedural requirement for annexation not in effect on January 1, 1995; and

(3) specify the financial obligations of the district during and after the period of limited-purpose annexation for:

(A) facilities constructed by the municipality that are in or that serve the district;

(B) debt incurred by the district for water and sewer infrastructure that will be assumed by the municipality at the end of the period of limited-purpose annexation; and

(C) use of the municipal sales taxes collected by the municipality for facilities or services in the district.

(c) If an agreement is not reached within 90 days after the date the municipality receives a petition submitted by a district:

(1) the district's status is automatically altered from full-purpose annexation to limited-purpose annexation for a period of not less than 10 years, beginning January 1 of the year following the date of the submission of a petition, unless the voters of the district have approved the dissolution of the district through an election authorized by this section; and

(2) on the expiration of the 10-year period of Subdivision (1), notwithstanding any other provision of law, the district may be restored to full-purpose annexation at the option of the municipality, provided that the municipality assumes all obligations otherwise assigned by law to a municipality that annexes a district; and

(3) the municipality may collect a waste and wastewater surcharge for customers in the district after restoration of full-purpose annexation provided that:

(A) notice of such proposed surcharge is provided to the board of a district six months prior to restoration of full-purpose annexation;

(B) the surcharge does not exceed the cost of a post-annexation surcharge to any other district annexed by the municipality; and

(C) the surcharge is in effect only during the period in which bonds issued by the district or refunded by the municipality are not fully retired.

(d) Upon the request of any residents of a district subject to this section the municipality may conduct an election on a uniform election date at which election voters who are residents of the district may vote for or against a ballot proposal to dissolve the district. If more than one district was created on the same date and the districts are contiguous, the election shall be a combined election of all such districts, with a majority of votes cast by all residents of the districts combined required for dissolution of the districts. If a majority of votes are in favor of dissolution, the date of dissolution shall be December 31 of the same year in which the election is held. Upon dissolution of the district, all property and obligations of a dissolved district become the responsibility of the municipality.

(e) The municipality shall have no responsibility to reimburse the developer of the district or its successors for more than reasonable and actual engineering and construction costs to design and build internal water treatment and distribution facilities, wastewater treatment and collection facilities, or drainage facilities, whether temporary or permanent, installed after September 1, 1995. Any obligation to reimburse the developer may be paid in installments over a three-year period.

(f) During the period of limited-purpose annexation:

(1) the district may not use bond proceeds to pay for impact fees but must comply with other items in its consent agreement with the municipality;

(2) the municipality:

(A) must continue to provide wholesale water and sewer service as provided by the consent agreement; and

(B) is relieved of service obligations in the district that are not provided to other territory annexed for limited purposes or required by the annexation alteration agreement between the municipality and the district; and

(3) retail sales in the boundaries of the district will be treated for municipal sales tax purposes as if the district were

annexed by the municipality for full purposes.

(g) This section does not allow a change in annexation status for land or facilities in a district to which the municipality granted a property tax abatement before September 1, 1995.

Added by Acts 1995, 74th Leg., ch. 787, Sec. 2, eff. Sept. 1, 1995. Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 40, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.16, eff. May 24, 2019.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 43.901. CIRCUMSTANCES IN WHICH CONSENT TO BOUNDARIES OR ANNEXATION IS PRESUMED. A municipal ordinance defining boundaries of or annexing area to a municipality is conclusively presumed to have been adopted with the consent of all appropriate persons, except another municipality, if:

(1) two years have expired after the date of the adoption of the ordinance; and

(2) an action to annul or review the adoption of the ordinance has not been initiated in that two-year period.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 401, Sec. 1, eff. Sept. 1, 2001.

Sec. 43.902. ANNEXATION, EXTRATERRITORIAL JURISDICTION, AND EMINENT DOMAIN ON INACCESSIBLE GULF ISLAND. (a) Land on an island bordering the Gulf of Mexico that is not accessible by a public road or common carrier ferry facility may not be annexed by a municipality without the consent of the owners of the land.

(b) The extraterritorial jurisdiction of a municipality does not include land on the island unless the owners of the land consent.

(c) A municipality may not take property on the island through eminent domain.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.903. EFFECT OF ANNEXATION ON RAILROAD SWITCHING LIMITS OR RATES. An annexation by a municipality does not change or otherwise affect the switching limits of a railroad or any rates of a railroad.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.905. EFFECT OF ANNEXATION ON OPERATION OF SCHOOL DISTRICT. (a) A municipality that proposes to annex an area shall provide written notice of the proposed annexation to each public school district located in the area proposed for annexation within the period prescribed for providing the notice of, as applicable:

(1) the hearing under Section 43.0673; or

(2) the first hearing under Section 43.063, 43.0683, or 43.0693.

(b) A notice to a public school district shall contain a description of:

(1) the area within the district proposed for annexation;

(2) any financial impact on the district resulting from the annexation, including any changes in utility costs; and

(3) any proposal the municipality has to abate, reduce, or limit any financial impact on the district.

(c) The municipality may not proceed with the annexation unless the municipality provides the required notice.

(d) A municipality that has annexed any portion of an area after December 1, 1996, and before September 1, 1999, in which a school district has a facility shall grant a variance from the municipality's building code for that facility if the facility does not comply with the code.

(e) A municipality that, as a result of the annexation, provides utility services to a school district facility may charge the district for utility services at:

(1) the same rate that the district was paying before the annexation; or

(2) a lower municipal rate.

(f) A rate set under Subsection (e) is effective until the first day of the school district's fiscal year that begins after the 90th day after the effective date of the annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 16, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 41, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.17, eff. May 24, 2019.

Sec. 43.9051. EFFECT OF ANNEXATION ON PUBLIC ENTITIES OR POLITICAL SUBDIVISIONS. (a) In this section, "public entity" includes a county, fire protection service provider, including a volunteer fire department, emergency medical services provider, including a volunteer emergency medical services provider, or special district described by Section 43.062(b)(2)(B).

(b) A municipality that proposes to annex an area shall provide to each public entity that is located in or provides services to the area proposed for annexation written notice of the proposed annexation within the period prescribed for providing the notice of, as applicable:

(1) the hearing under Section 43.0673; or

(2) the first hearing under Section 43.063, 43.0683, or 43.0693.

(c) A municipality that proposes to enter into a strategic partnership agreement under Section 43.0751 shall provide written notice of the proposed agreement within the period prescribed for providing the notice of the first hearing under Section 43.0751 to each political subdivision that is located in or provides services to the area subject to the proposed agreement.

(d) A notice to a public entity or political subdivision shall contain a description of:

(1) the area proposed for annexation;

(2) any financial impact on the public entity or political subdivision resulting from the annexation, including any changes in the public entity's or political subdivision's revenues or maintenance and operation costs; and

(3) any proposal the municipality has to abate, reduce, or limit any financial impact on the public entity or political subdivision.

(e) The municipality may not proceed with the annexation unless the municipality provides the required notice under this section.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 42, eff. December 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.18, eff. May 24, 2019.

Sec. 43.907. EFFECT OF ANNEXATION ON COLONIAS. (a) In this section, "colonia" means a geographic area that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood and that:

(1) has a majority population composed of individuals and families of low income and very low income, as defined by Section 2306.004, Government Code, and based on the federal Office of Management and Budget poverty index, and that meets the qualifications of an economically distressed area under Section 17.921, Water Code; or

(2) has the physical and economic characteristics of a colonia, as determined by the Texas Department of Housing and Community Affairs.

(b) A colonia that is annexed by a municipality remains eligible for five years after the effective date of the annexation to receive any form of assistance for which the colonia would be eligible if the annexation had not occurred.

Added by Acts 1999, 76th Leg., ch. 218, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 43.905 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(84), eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 18, eff. June 15, 2007.

Sec. 43.908. ENFORCEMENT OF CHAPTER. (a) This chapter may be enforced only through mandamus or declaratory or injunctive relief.

(b) A political subdivision's immunity from suit is waived in regard to an action under this chapter.

(c) A court may award court costs and reasonable and necessary attorney's fees to the prevailing party in an action under this

chapter.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 43, eff. December 1, 2017.

SUBTITLE D. GENERAL POWERS OF MUNICIPALITIES
CHAPTER 51. GENERAL POWERS OF MUNICIPALITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51.001. ORDINANCE, RULE, OR REGULATION NECESSARY TO CARRY OUT OTHER POWERS. The governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that:

(1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and

(2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.002. ORDINANCE OR RULES INCONSISTENT WITH STATE LAW PROHIBITED. Notwithstanding Section 51.001, the governing body of a municipality may adopt, enforce, or maintain an ordinance or rule only if the ordinance or rule is consistent with the laws of this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 899 (H.B. 2127), Sec. 11, eff. September 1, 2023.

Sec. 51.003. MUNICIPAL ACT OR PROCEEDING PRESUMED VALID. (a) A governmental act or proceeding of a municipality is conclusively presumed, as of the date it occurred, to be valid and to have occurred in accordance with all applicable statutes and ordinances if:

(1) the third anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;

(3) an incorporation or attempted incorporation of a municipality, or an annexation or attempted annexation of territory by a municipality, within the incorporated boundaries or extraterritorial jurisdiction of another municipality that occurred without the consent of the other municipality in violation of Chapter 42 or 43;

(4) an ordinance that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or

(5) a matter that on the effective date of this section:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(B) has been held invalid by a final judgment of a court.

Added by Acts 1999, 76th Leg., ch. 1338, Sec. 1, eff. June 19, 1999.

SUBCHAPTER B. PROVISIONS APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 51.011. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type A general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.012. ORDINANCES AND REGULATIONS. The municipality may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.013. AUTHORITY RELATING TO LAWSUITS. The municipality may sue and be sued, implead and be impleaded, and answer and be answered in any matter in any court or other place.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.014. AUTHORITY TO CONTRACT. The municipality may contract with other persons.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.015. AUTHORITY TO HOLD, PURCHASE, LEASE, OR CONVEY PROPERTY. (a) To carry out a municipal purpose, the municipality may take, hold, purchase, lease, grant, or convey property located in or outside the municipality.

(b) The governing body of the municipality may manage and control the property belonging to the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.016. ADOPTION AND USE OF SEAL. The municipality may adopt a corporate seal for the use of the municipality. The municipality may change and renew the seal.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.017. CONTINUATION OF POWERS, DUTIES, PENALTIES, AND SUITS AFTER CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY. (a) This section applies only to a Type A general-law municipality that:

(1) changed to that type under Subchapter B of Chapter 6; or

(2) changed its municipal type under the predecessor statutes to Subchapter B of Chapter 6.

(b) The municipality continues to have the powers, rights, immunities, privileges, and franchises possessed at the time the municipality changed to a Type A general-law municipality and continues to be subject to the duties it had at the time of the

change.

(c) A right, action, fine, penalty, or forfeiture that, under the laws in effect before the municipality changed to a Type A general-law municipality, accrued in favor of the municipality in a suit or in any other manner continues to be vested in and shall be prosecuted by the municipality after the change.

(d) A suit pending against the municipality before the municipality changed to a Type A general-law municipality is not affected by the change. After the change, the municipality shall, as appropriate, prosecute or defend the suit.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.018. OWNERSHIP AND SALE OF PROPERTY AFTER CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY. (a) This section applies only to a Type A general-law municipality described by Section 51.017(a).

(b) The property belonging to the municipality before it changed to a Type A general-law municipality continues to belong to the municipality after the change.

(c) If, before changing to a Type A general-law municipality, the municipality was incorporated under a law of the Republic of Texas, the governing body of the municipality may sell the property and appropriate the proceeds of the sale for the acquisition, construction, maintenance, or operation of a water, sewer, gas, or electric light or power system in or outside the municipality or for any other public improvement in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. PROVISIONS APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY

Sec. 51.031. SUBCHAPTER APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type B general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.032. ORDINANCES AND BYLAWS. (a) The governing body of

the municipality may adopt an ordinance or bylaw, not inconsistent with state law, that the governing body considers proper for the government of the municipal corporation.

(b) The governing body may take any other action necessary to carry out a provision of this code applicable to the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.033. AUTHORITY RELATING TO LAWSUITS. The municipality may sue and be sued and may plead and be impleaded.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.034. AUTHORITY TO HOLD AND DISPOSE OF PROPERTY. The municipality may hold and dispose of:

(1) personal property; and

(2) real property located within the municipal boundaries.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.035. AUTHORITY, DUTIES, PRIVILEGES. A Type B general-law municipality has the same authority, duties, and privileges as a Type A general-law municipality, unless the Type B general-law municipality in exercising the authority or privilege or performing the duty would be in conflict with another provision of this code or other state law that relates specifically to Type B general-law municipalities.

Added by Acts 1991, 72nd Leg., ch. 753, Sec. 1, eff. June 16, 1991.

SUBCHAPTER D. PROVISIONS APPLICABLE TO TYPE C GENERAL-LAW MUNICIPALITY

Sec. 51.051. GENERAL POWERS OF TYPE C GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type C general-law municipality with 501 to 4,999 inhabitants has the same authority and is subject to the same duties as a Type A general-law municipality unless the authority or duties conflict with a provision of this code relating

specifically to a Type C general-law municipality.

(b) The governing body of a Type C general-law municipality with 201 to 500 inhabitants has the same authority as a Type B general-law municipality unless the authority conflicts with a provision of this code relating specifically to a Type C general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(c), eff. Aug. 28, 1989.

Sec. 51.052. ALTERNATIVE GENERAL POWERS FOR CERTAIN TYPE C GENERAL-LAW MUNICIPALITIES. (a) A municipality that is incorporated as a Type C general-law municipality and that has $500,000 or more of assessed valuation for taxable purposes, according to its most recently approved tax rolls, may adopt the powers of a Type A general-law municipality regardless of any limitation prescribed by Section 51.051. On adoption of the powers, the municipality has the same rights, powers, privileges, immunities, and franchises as a Type A general-law municipality.

(b) For a municipality to adopt the powers:

(1) at least two-thirds of the governing body of the municipality at a regular meeting must vote to make the change and the vote must be recorded in the journal of the governing body's proceedings;

(2) a copy of the record of the proceedings must be signed by the mayor;

(3) a copy of the record of the proceedings must be attested by the municipality's clerk or secretary under the corporate seal; and

(4) a copy of the record of the proceedings must be filed and recorded in the office of the county clerk of the county in which the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITY

Sec. 51.071. SUBCHAPTER APPLICABLE TO HOME-RULE MUNICIPALITY. This subchapter applies only to a home-rule municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.072. AUTHORITY OF LOCAL SELF-GOVERNMENT. (a) The municipality has full power of local self-government.

(b) The grant of powers to the municipality by this code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.073. ADOPTION OF CHARTER DOES NOT AFFECT RIGHTS AND CLAIMS. The adoption or amendment of the municipality's charter does not affect any previously existing property, action, right of action, claim, or demand involving the municipality. A right of action, claim, or demand may be asserted as fully as though the adoption or amendment of the charter had not occurred.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.074. PERPETUAL SUCCESSION. The municipality may act in perpetual succession as a body politic.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.075. AUTHORITY RELATING TO LAWSUITS. The municipality may plead and be impleaded in any court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.076. AUTHORITY RELATING TO PROPERTY. (a) The municipality may hold property, including any charitable or trust fund, that it receives by gift, deed, devise, or other manner.

(b) The municipality may provide that any property owned or held by the municipality is not subject to any kind of execution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.077. LIABILITY FOR DAMAGES. The municipality may adopt rules, as it considers advisable, governing the municipality's liability for damages caused to a person or property. The municipality may provide for its exemption from liability.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.078. PRESERVATION OF CERTAIN POWERS GRANTED BEFORE 1913. Powers granted before July 1, 1913, to a municipality by general law or special law continue to be powers of the municipality after it adopts a home-rule charter if the powers are made a part of the charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 51.079. RESTRICTIONS APPLYING TO NONBINDING REFERENDUM. (a) A nonbinding referendum held by the municipality as a result of a petition by the voters of the municipality must be held on the same date of an election called by the governing body of the municipality on another question or for the election of one or more municipal officers.

(b) The referendum may be held on a date other than one described by Subsection (a) if:

(1) one or more of the persons signing the petition agrees in a writing filed with the governing body of the municipality to pay, before the 60th day after the date of the referendum, all costs incurred by the municipality in holding the referendum; and

(2) the persons agreeing to pay the costs execute a bond complying with Subsection (c).

(c) The bond must be:

(1) payable to, approved by, and filed with the governing body of the municipality;

(2) executed with a corporate surety authorized to do business in this state;

(3) in an amount the governing body estimates is necessary to cover the costs the municipality will incur in holding the referendum; and

(4) conditioned that the persons executing the bond will pay, before the 60th day after the date of the referendum, all costs incurred by the municipality in holding the referendum.

(d) This section does not apply to a referendum that is expressly authorized by the state constitution or a statute.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 6(a), eff. Aug. 28, 1989.

CHAPTER 52. ADOPTION OF MUNICIPAL ORDINANCES

SUBCHAPTER A. GENERAL PROVISIONS APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITIES

Sec. 52.001. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type A general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 52.002. STYLE. (a) The style of an ordinance of the municipality must be: "Be it ordained by the _____ (insert the name by which the governing body of the municipality is known, such as city council, board of aldermen, or city commission) of the _____ (insert the type of entity that the municipality is known as, such as city, town, or village) of (insert the name of the municipality)."

(b) The style may be omitted when the ordinance is published in a book or pamphlet.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 7, eff. Sept. 1, 2001.

Sec. 52.003. APPROVAL BY MAYOR AND RELATED CONDITIONS FOR ORDINANCE TO TAKE EFFECT. (a) Before an ordinance or resolution adopted by the governing body of the municipality may take effect, the ordinance or resolution must be placed in the office of the secretary of the municipality. The mayor shall sign the ordinances and resolutions that the mayor approves.

(b) If the mayor does not sign an ordinance or resolution before the fourth day after the date it is placed in the secretary's

office and does not return the ordinance or resolution under Subsection (c), the ordinance or resolution takes effect as provided by law.

(c) If the mayor returns an ordinance or resolution to the governing body with a statement of objections before the fourth day after the date the ordinance or resolution is placed in the secretary's office, the governing body shall, on the return, reconsider the vote by which the ordinance or resolution was adopted. If a majority of the total number of members of the governing body, excluding the mayor, approve the ordinance or resolution on reconsideration and enter the votes in the journal of the governing body's proceedings, the ordinance or resolution may take effect.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 52.004. OFFICIAL NEWSPAPER. (a) As soon as practicable after the beginning of each municipal year, the governing body of the municipality shall contract, as determined by ordinance or resolution, with a public newspaper of the municipality to be the municipality's official newspaper until another newspaper is selected.

(b) The governing body shall publish in the municipality's official newspaper each ordinance, notice, or other matter required by law or ordinance to be published.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. PUBLICATION OF ORDINANCES

Sec. 52.011. TYPE A GENERAL-LAW MUNICIPALITY. (a) If a Type A general-law municipality adopts an ordinance that imposes a penalty, fine, or forfeiture, the ordinance, or a caption that summarizes the purpose of the ordinance and the penalty for violating the ordinance, shall be published in:

(1) every issue of the official newspaper for two days; or

(2) one issue of the newspaper if the official newspaper is a weekly paper.

(b) An affidavit by the printer or publisher of the official newspaper verifying the publication shall be filed in the office of the secretary of the municipality. In the courts of this state, the

affidavit is prima facie evidence of the adoption of the ordinance and of the required publication.

(c) An ordinance required to be published by this section takes effect when the publication requirement is satisfied unless the ordinance provides otherwise. An ordinance that is not required to be published by this section takes effect when adopted unless the ordinance provides otherwise.

(d) If a Type A general-law municipality publishes its ordinances in pamphlet or book form, the publication in the official newspaper of an ordinance included in the pamphlet or book is not required if the ordinance was published previously in the official newspaper. A court shall admit without further proof an ordinance of a Type A general-law municipality that is published in pamphlet or book form as authorized by the governing body if the ordinance was published previously in the official newspaper.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 194, Sec. 1, eff. Aug. 28, 1989.

Sec. 52.012. TYPE B GENERAL-LAW MUNICIPALITY. (a) Before an ordinance or a bylaw of a Type B general-law municipality may be enforced, the ordinance or bylaw, or a caption that summarizes the purpose of the ordinance or bylaw and the penalty for violating the ordinance or bylaw must be posted in three public places in the municipality or published in a newspaper that is published in the municipality. If no newspaper is published in the municipality, the ordinance, bylaw, or summary may be published in a newspaper with general circulation in the municipality.

(b) Unless the publication is in a weekly newspaper, the governing body must post or publish the ordinance, bylaw, or summary for at least two days. If the publication is in a weekly newspaper, the governing body shall publish the ordinance, bylaw, or summary in one issue.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 194, Sec. 2, eff. Aug. 28, 1989.

Sec. 52.013. HOME-RULE MUNICIPALITIES. (a) The governing body of a home-rule municipality may publish a caption of an adopted

ordinance that summarizes the purpose of the ordinance and any penalty for violating the ordinance in lieu of a requirement in the municipality's charter that the text of the ordinance be published.

(b) If the charter of a home-rule municipality does not provide for the method of publication of an ordinance, the full text of the ordinance or a caption that summarizes the purpose of the ordinance and the penalty for violating the ordinance may be published at least twice in the municipality's official newspaper.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 53. CODE OF MUNICIPAL ORDINANCES

Sec. 53.001. ADOPTION OF CODE. (a) A municipality may adopt by ordinance a codification of its civil and criminal ordinances, together with appropriate penalties for the violation of the ordinances.

(b) On the adoption of the code, the secretary of the municipality shall record the code in the municipality's ordinance records.

(c) The code is effective on its adoption.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 53.002. PUBLICATION OF ADOPTION ORDINANCE. (a) Except as provided by Subsection (b), the ordinance adopting a code of municipal ordinances shall be published in the official publication of the municipality or in a newspaper published in the municipality or county as provided by law.

(b) If the municipality is a special-law municipality and its charter provides for the publication of both civil and criminal ordinances, the municipality shall publish the ordinance in compliance with its charter.

(c) It is not necessary to publish the code itself.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(d), eff. Aug. 28, 1989.

Sec. 53.003. SUBDIVISION OF CODE. A code of municipal

ordinances may be subdivided into chapters, titles, articles, or sections at the discretion of the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 53.004. CHANGE OR REPEAL OF ORDINANCE. If a change in a municipality's form of government and designation of offices and officers necessitates the change or repeal of an ordinance or part of an ordinance being codified, the municipality may amend, omit, or repeal the ordinance in the codification to conform it to the municipality's present form of government without separately reenacting, repealing, or amending the source ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 53.005. EFFECT OF CODIFICATION. (a) A municipal code of ordinances has the force and effect of an ordinance regularly adopted in accordance with law.

(b) The record of the code in the municipality's ordinance records is a record of the codified ordinances and establishes the content of those ordinances.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 53.006. PRINTED CODE AS EVIDENCE. (a) A municipality may have printed, under the direction of the governing body of the municipality, a copy of the code that is authenticated and approved by the mayor's signature and attested by the secretary of the municipality.

(b) In a court, the printed code is prima facie evidence of the existence and regular enactment of the ordinance adopting the code. A court shall admit the printed code in evidence without further proof.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 54. ENFORCEMENT OF MUNICIPAL ORDINANCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 54.001. GENERAL ENFORCEMENT AUTHORITY OF MUNICIPALITIES; PENALTY. (a) The governing body of a municipality may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation.

(b) A fine or penalty for the violation of a rule, ordinance, or police regulation may not exceed $500 except that:

(1) a fine or penalty for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, may not exceed $2,000; and

(2) a fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed $4,000.

(c) This section applies to a municipality regardless of any contrary provision in a municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 7(a), 87(e), eff. Aug. 28, 1989. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 680 (H.B. 274), Sec. 1, eff. September 1, 2015.

Sec. 54.002. IMPOSITION OF FINE IN TYPE B GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type B general-law municipality may prescribe the fine for the violation of a municipal bylaw or ordinance.

(b) If a defendant in a Type B general-law municipality demands a jury trial, the fine may be imposed only on the verdict of a jury.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.003. REMISSION OF FINE BY TYPE A GENERAL-LAW MUNICIPALITY. On a two-thirds vote of the members present, the governing body of a Type A general-law municipality may remit a fine or a penalty, or a part of a fine or penalty, imposed or incurred under law or under an ordinance or resolution adopted in accordance with law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.004. PRESERVATION OF HEALTH, PROPERTY, GOOD GOVERNMENT, AND ORDER IN HOME-RULE MUNICIPALITY. A home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.005. NOTICES TO CERTAIN PROPERTY OWNERS. (a) A governmental entity that is required by statute, rule, regulation, or ordinance to send a notice to an owner of real property for the purpose of enforcing a municipal ordinance may include the following statement in the notice: "According to the real property records of _____ County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not." The notice must be delivered in person or by certified mail, return receipt requested.

(b) If a governmental entity sends a notice to the owner of the property to which the notice relates, as shown on or after the 10th day before the date notice is sent by the real property records of the county in which the property is located, and the record owner no longer owns the property, the record owner shall execute an affidavit provided with the notice by the governmental entity stating:

(1) that the record owner no longer owns the property; and

(2) the name and last known address of the person who acquired the property from the record owner.

(c) The record owner shall deliver the affidavit in person or by certified mail, return receipt requested, to the governmental entity not later than the 20th day after the date the record owner receives the notice.

(d) If the governmental entity receives an affidavit under Subsection (c), the governmental entity shall send the appropriate notice to the person named in the affidavit as having acquired the property. A notice sent under this subsection must include the statement authorized by Subsection (a).

(e) A governmental entity that receives an affidavit under Subsection (c) shall:

(1) maintain the affidavit on file for at least two years after the date the entity receives the affidavit; and

(2) deliver a copy of the affidavit to the chief appraiser of the appraisal district in which the property is located.

(f) A governmental entity is considered to have provided notice to a property owner if the entity complies with the statute, rule, regulation, or ordinance under which the notice is sent and if it:

(1) complies with Subsection (a) and does not receive an affidavit from the record owner; or

(2) complies with Subsection (d) and does not receive an affidavit from the person to whom the notice was sent under Subsection (d).

(g) If a governmental entity complies with this section and does not receive an affidavit under Subsection (c), the record owner is presumed to be the owner of the property for all purposes to which the notice relates.

(h) For purposes of this section, "real property" does not include a mineral interest or royalty interest.

Added by Acts 1991, 72nd Leg., ch. 486, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.006. NONSEVERABILITY OF CERTAIN CONSOLIDATED OFFENSES. Section 3.04(a), Penal Code, does not apply to two or more offenses consolidated or joined for trial under Section 3.02, Penal Code, if each of the offenses is:

(1) for the violation of an ordinance described by Section 54.012;

(2) punishable by fine only; and

(3) tried in a municipal court, regardless of whether the court is a municipal court of record.

Added by Acts 2001, 77th Leg., ch. 413, Sec. 4, eff. Sept. 1, 2001.

SUBCHAPTER B. MUNICIPAL HEALTH AND SAFETY ORDINANCES

Sec. 54.012. CIVIL ACTION. A municipality may bring a civil action for the enforcement of an ordinance:

(1) for the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

(2) relating to the preservation of public health or to the fire safety of a building or other structure or improvement, including provisions relating to materials, types of construction or design, interior configuration, illumination, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

(3) for zoning that provides for the use of land or classifies a parcel of land according to the municipality's district classification scheme;

(4) establishing criteria for land subdivision or construction of buildings, including provisions relating to street width and design, lot size, building width or elevation, setback requirements, or utility service specifications or requirements;

(5) implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor;

(6) relating to dangerously damaged or deteriorated structures or improvements;

(7) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;

(8) relating to the interior configuration, design, illumination, or visibility of business premises exhibiting for viewing by customers while on the premises live or mechanically or electronically displayed entertainment intended to provide sexual stimulation or sexual gratification;

(9) relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality;

(10) relating to floodplain control and administration, including an ordinance regulating the placement of a structure, fill,

or other materials in a designated floodplain;

(11) relating to animal care and control; or

(12) relating to water conservation measures, including watering restrictions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 343, Sec. 1, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 753, Sec. 3, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 472, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 135 (S.B. 654), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1396 (H.B. 1554), Sec. 1, eff. September 1, 2013.
Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 12.001, eff. September 1, 2015.

Sec. 54.013. JURISDICTION; VENUE. Jurisdiction and venue of an action under this subchapter are in the district court or the county court at law of the county in which the municipality bringing the action is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.014. PREFERENTIAL SETTING. If the municipality submits to the court a verified motion that includes facts that demonstrate that a delay will unreasonably endanger persons or property, the court shall give a preference to the action brought by the municipality when setting cases filed under this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.015. PROCEDURE. (a) The only allegations required to be pleaded in an action brought under this subchapter are:

(1) the identification of the real property involved in the violation;

(2) the relationship of the defendant to the real property or activity involved in the violation;

(3) a citation to the applicable ordinance;

(4) a description of the violation; and

(5) a statement that this subchapter applies to the ordinance.

(b) The standard of proof is the same as for other suits for extraordinary relief.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.0155. EXPEDITED PROCEEDINGS FOR CERTAIN CIVIL ACTIONS. (a) A court shall expedite any proceeding, including an appeal in accordance with Subsection (b), related to a suit brought under this subchapter for the enforcement of an ordinance adopted by a municipality with a population of 500,000 or more relating to dangerously damaged or deteriorated structures or improvements as described by Section 54.012(6).

(b) An appeal of a suit described by Subsection (a) is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. The appellate court shall render its final order or judgment with the least possible delay.

Added by Acts 2019, 86th Leg., R.S., Ch. 1273 (H.B. 36), Sec. 2, eff. June 14, 2019.

Sec. 54.016. INJUNCTION. (a) On a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant, the municipality may obtain against the owner or owner's representative with control over the premises an injunction that:

(1) prohibits specific conduct that violates the ordinance; and

(2) requires specific conduct that is necessary for compliance with the ordinance.

(b) It is not necessary for the municipality to prove that another adequate remedy or penalty for a violation does not exist or to show that prosecution in a criminal action has occurred or has been attempted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.017. CIVIL PENALTY. (a) In a suit against the owner or the owner's representative with control over the premises, the municipality may recover a civil penalty if it proves that:

(1) the defendant was actually notified of the provisions of the ordinance; and

(2) after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.

(b) A civil penalty under this section may not exceed $1,000 a day for a violation of an ordinance, except that a civil penalty under this section may not exceed $5,000 a day for a violation of an ordinance relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 472, Sec. 2, eff. Sept. 1, 1993.

Sec. 54.018. ACTION FOR REPAIR OR DEMOLITION OF STRUCTURE. (a) The municipality may bring an action to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover removal costs.

(b) In an action under this section, the municipality may also bring:

(1) a claim for civil penalties under Section 54.017; and

(2) an action in rem against the structure that may result in a judgment against the structure as well as a judgment against the defendant.

(c) The municipality may file a notice of lis pendens in the office of the county clerk. If the municipality files the notice, a subsequent purchaser or mortgagee who acquires an interest in the property takes the property subject to the enforcement proceeding and subsequent orders of the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1054 (S.B. 173), Sec. 1, eff. September 1, 2011.

Sec. 54.019. IMPRISONMENT; CONTEMPT. (a) A person is not subject to personal attachment or imprisonment for the failure to pay a civil penalty assessed under this subchapter.

(b) This subchapter does not affect the power of a court to imprison a person for contempt of valid court orders or the availability of remedies or procedures for the collection of a judgment assessing civil penalties. The remedies under Section 31.002, Civil Practice and Remedies Code, are preserved.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.020. ABATEMENT OF FLOODPLAIN VIOLATION IN MUNICIPALITIES; LIEN. (a) In addition to any necessary and reasonable actions authorized by law, a municipality may abate a violation of a floodplain management ordinance by causing the work necessary to bring real property into compliance with the ordinance, including the repair, removal, or demolition of a structure, fill, or other material illegally placed in the area designated as a floodplain, if:

(1) the municipality gives the owner reasonable notice and opportunity to comply with the ordinance; and

(2) the owner of the property fails to comply with the ordinance.

(b) The municipality may assess the costs incurred by the municipality under Subsection (a) against the property. The municipality has a lien on the property for the costs incurred and for interest accruing at the annual rate of 10 percent on the amount due until the municipality is paid.

(c) The municipality may perfect the lien by filing written notice of the lien with the county clerk of the county in which the property is located. The notice of lien must be in recordable form and must state the name of each property owner, if known, the legal description of the property, and the amount due.

(d) The municipality's lien is inferior to any previously recorded bona fide mortgage lien attached to the real property to

which the municipality's lien attaches, if the mortgage lien was filed for record before the date the municipality files the notice of lien with the county clerk. The municipality's lien is superior to all other previously recorded judgment liens.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1396 (H.B. 1554), Sec. 2, eff. September 1, 2013.

SUBCHAPTER C. QUASI-JUDICIAL ENFORCEMENT OF HEALTH AND SAFETY ORDINANCES

Sec. 54.031. SUBCHAPTER APPLICABLE TO CERTAIN MUNICIPALITIES. This subchapter applies to a municipality that by ordinance implements the subchapter.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 753, Sec. 5, eff. June 16, 1991.

Sec. 54.032. ORDINANCES SUBJECT TO QUASI-JUDICIAL ENFORCEMENT. This subchapter applies only to ordinances:

(1) for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

(2) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

(3) relating to dangerously damaged or deteriorated buildings or improvements;

(4) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;

(5) relating to a building code or to the condition, use, or appearance of property in a municipality;

(6) relating to animal care and control; or

(7) relating to water conservation measures, including watering restrictions.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 582, Sec. 1, eff. June 2, 1997. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 135 (S.B. 654), Sec. 2, eff. September 1, 2013.

Sec. 54.033. BUILDING AND STANDARDS COMMISSION. (a) The governing body of the municipality may provide for the appointment of a building and standards commission to hear and determine cases concerning alleged violations of ordinances.

(b) A commission appointed for the purpose of hearing cases under this subchapter shall consist of one or more panels, each composed of at least five members, to be appointed for terms of two years.

(c) The appointing authority may remove a commission member for cause on a written charge. Before a decision regarding removal is made, the appointing authority must hold a public hearing on the matter if requested by the commission member subject to the removal action.

(d) A vacancy shall be filled for the unexpired term.

(e) The governing body, by charter or ordinance, may provide for the appointment of eight or more alternate members of the commission who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager. The alternate members serve for the same period and are subject to removal in the same manner as the regular members. A vacancy is filled in the same manner as a vacancy among the regular members.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 1, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 3, eff. Sept. 1, 2001.

Sec. 54.034. PROCEEDINGS OF COMMISSION PANELS. (a) All cases to be heard by the commission may be heard by any panel of the commission. A majority of the members of a panel must hear a case.

(b) A majority of the entire commission shall adopt rules for the entire commission in accordance with any ordinances adopted pursuant to this subchapter. The rules shall establish procedures

for use in hearings, providing ample opportunity for presentation of evidence and testimony by respondents or persons opposing charges brought by the municipality or its building officials relating to alleged violations of ordinances.

(c) The governing body of the municipality by ordinance shall designate the appropriate official of the municipality who shall present all cases before the commission panels.

(d) Meetings of the commission panels shall be held at the call of the chairman of each panel and at other times as determined by the commission. All meetings of the commission and its panels shall be open to the public. Each chairman of a panel, or in the chairman's absence each acting chairman, may administer oaths and compel the attendance of witnesses.

(e) Each commission panel shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. Each commission panel shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the office of the commission as public records.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 2, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 5, eff. Sept. 1, 2001.

Sec. 54.035. NOTICE. (a) Except as provided by Subsections (a-1) and (a-2), notice of all proceedings before the commission panels must be given:

(1) by personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk; and

(2) to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.

(a-1) Notice to a condominium association of a proceeding before a commission panel relating to a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million must be served by personal service, by certified mail, return receipt requested, or by the United States Postal Service using signature confirmation service, to the registered agent of the unit owners' association.

(a-2) Notice to an owner of a unit of a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million must be given in accordance with Section 82.118, Property Code.

(b) The notice must be posted and either personally delivered or mailed on or before the 10th day before the date of the hearing before the commission panel and must state the date, time, and place of the hearing. In addition, the notice must be published in a newspaper of general circulation in the municipality on one occasion on or before the 10th day before the date fixed for the hearing.

(c) The commission may file notice of a proceeding before a commission panel in the Official Public Records of Real Property in the county in which the affected property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, a legal description of the affected property, and a description of the proceeding. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice and constitutes notice of the proceeding on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

(d) A municipality must exercise due diligence to determine the identity and address of a property owner, lienholder, or registered agent to whom the municipality is required to give notice.

(e) A municipality exercises due diligence in determining the identity and address of a property owner, lienholder, or registered agent when it follows the procedures for service under Section 82.118, Property Code, or searches the following records:

(1) county real property records of the county in which the property is located;

(2) appraisal district records of the appraisal district in which the property is located;

(3) records of the secretary of state, if the property owner, lienholder, or registered agent is a corporation, partnership, or other business association;

(4) assumed name records of the county in which the property is located;

(5) tax records of the municipality; and

(6) utility records of the municipality.

(f) When a municipality mails a notice in accordance with this section to a property owner, lienholder, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 3, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 6, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 370 (S.B. 352), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1323 (H.B. 3128), Sec. 4, eff. September 1, 2009.

Sec. 54.036. FUNCTIONS. A commission panel may:

(1) order the repair, within a fixed period, of buildings found to be in violation of an ordinance;

(2) declare a building substandard in accordance with the powers granted by this subchapter;

(3) order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;

(4) issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the municipality, to enforce and carry out the lawful orders or directives of the commission panel;

(5) determine the amount and duration of the civil penalty the municipality may recover as provided by Section 54.017.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 4, eff. Sept. 1, 1993.

Sec. 54.037. CIVIL PENALTY. (a) A determination made under Section 54.036(5) is final and binding and constitutes prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the municipality for final judgment in accordance with the established penalty.

(b) To enforce any civil penalty under this subchapter, the municipal secretary or clerk must file with the district clerk of the county in which the municipality is located, a certified copy of the order of the commission panel establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 5, eff. Sept. 1, 1993.

Sec. 54.038. VOTE. A majority vote of the members voting on a matter is necessary to take any action under this subchapter and any ordinance adopted by the municipality in accordance with this subchapter.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 6, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 7, eff. Sept. 1, 2001.

Sec. 54.039. JUDICIAL REVIEW. (a) Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision of a commission panel may present a petition to a district court, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within 30 calendar days after the date a copy of the final decision of the commission panel is personally delivered, mailed by first class mail with certified return receipt

requested, or delivered by the United States Postal Service using signature confirmation service, to all persons to whom notice is required to be sent under Section 54.035. The commission panel shall deliver or mail that copy promptly after the decision becomes final. In addition, an abbreviated copy of the order shall be published one time in a newspaper of general circulation in the municipality within 10 calendar days after the date of the delivery or mailing of the copy as provided by this subsection, including the street address or legal description of the property; the date of the hearing, a brief statement indicating the results of the order, and instructions stating where a complete copy of the order may be obtained, and, except in a municipality with a population of 1.9 million or more, a copy shall be filed in the office of the municipal secretary or clerk.

(b) On presentation of the petition, the court may allow a writ of certiorari directed to the commission panel to review the decision of the commission panel and shall prescribe in the writ the time, which may not be less than 10 days, within which a return on the writ must be made and served on the relator or the relator's attorney.

(c) The commission panel may not be required to return the original papers acted on by it. It is sufficient for the commission panel to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ.

(d) The return must concisely set forth other facts as may be pertinent and material to show the grounds for the decision appealed from and shall be verified.

(e) The allowance of the writ does not stay proceedings on the decision appealed from.

(f) The district court's review shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.

(g) Costs may not be allowed against the commission panel.

(h) If the decision of the commission panel is affirmed or not substantially reversed but only modified, the district court shall allow to the municipality all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners as well as all persons found to be in occupation of the property subject to the proceedings before the commission panel.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 7, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 701, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 370 (S.B. 352), Sec. 2, eff. June 15, 2007.

Sec. 54.040. LIEN; ABSTRACT. (a) An order issued under Section 54.036, including any civil penalties assessed under Section 54.036(5), is enforceable in the same manner as provided in Sections 214.001(k), (m), (n), and (o). An abstract of judgment shall be ordered against all parties found to be the owners of the subject property or in possession of that property.

(b) A lienholder does not have standing to bring a proceeding under Section 54.039 on the ground that the lienholder was not notified of the proceedings before the commission panel or was unaware of the condition of the property, unless the lienholder had first appeared before the commission panel and entered an appearance in opposition to the proceedings.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 8, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1141 (H.B. 2647), Sec. 1, eff. September 1, 2009.

Sec. 54.041. COMMISSION PANEL DECISION FINAL. If no appeals are taken from the decision of the commission panel within the required period, the decision of the commission panel is, in all things, final and binding.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 9, eff. Sept. 1, 1993.

Sec. 54.042. MUNICIPAL COURT PROCEEDING NOT AFFECTED. This subchapter does not affect the ability of a municipality to proceed under the jurisdiction of the municipal court.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.043. ALTERNATIVE ADJUDICATION PROCESSES. A municipality by ordinance may adopt a civil adjudication process, as an alternative to the enforcement process prescribed by the other provisions of this subchapter, for the enforcement of ordinances described by Section 54.032. The alternative process must contain provisions relating to notice, the conduct of proceedings, permissible orders, penalties, and judicial review that are similar to the provisions of this subchapter.

Added by Acts 1997, 75th Leg., ch. 582, Sec. 2, eff. June 2, 1997.

Sec. 54.044. ALTERNATIVE PROCEDURE FOR ADMINISTRATIVE HEARING. (a) As an alternative to the enforcement processes described by this subchapter, a municipality by ordinance may adopt a procedure for an administrative adjudication hearing under which an administrative penalty may be imposed for the enforcement of an ordinance described by Section 54.032 or adopted under Section 214.001(a)(1).

(b) A procedure adopted under this section must entitle the person charged with violating an ordinance to a hearing and must provide for:

(1) the period during which a hearing shall be held;

(2) the appointment of a hearing officer with authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents; and

(3) the amount and disposition of administrative penalties, costs, and fees.

(c) A municipal court may enforce an order of a hearing officer compelling the attendance of a witness or the production of a document.

(d) A citation or summons issued as part of a procedure adopted under this section must:

(1) notify the person charged with violating the ordinance that the person has the right to a hearing; and

(2) provide information as to the time and place of the hearing.

(e) The original or a copy of the summons or citation shall be

kept as a record in the ordinary course of business of the municipality and is rebuttable proof of the facts it states.

(f) The person who issued the citation or summons is not required to attend a hearing under this section.

(g) A person charged with violating an ordinance who fails to appear at a hearing authorized under this section is considered to admit liability for the violation charged.

(h) At a hearing under this section, the hearing officer shall issue an order stating:

(1) whether the person charged with violating an ordinance is liable for the violation; and

(2) the amount of a penalty, cost, or fee assessed against the person.

(i) An order issued under this section may be filed with the clerk or secretary of the municipality. The clerk or secretary shall keep the order in a separate index and file. The order may be recorded using microfilm, microfiche, or data processing techniques.

(j) An order issued under this section against a person charged with an ordinance violation may be enforced by:

(1) filing a civil suit for the collection of a penalty assessed against the person; and

(2) obtaining an injunction that:

(A) prohibits specific conduct that violates the ordinance; or

(B) requires specific conduct necessary for compliance with the ordinance.

(k) A person who is found by a hearing officer to have violated an ordinance may appeal the determination by filing a petition in municipal court before the 31st day after the date the hearing officer's determination is filed. An appeal does not stay enforcement and collection of the judgment unless the person, before filing the appeal, posts a bond with an agency designated for that purpose by the municipality.

Added by Acts 2001, 77th Leg., ch. 413, Sec. 9, eff. Sept. 1, 2001.

SUBTITLE E. CONSOLIDATION AND ABOLITION OF MUNICIPALITIES

CHAPTER 61. CONSOLIDATION OF MUNICIPALITIES

Sec. 61.001. AUTHORITY TO CONSOLIDATE. The following

municipalities may consolidate under one government in the manner provided by this chapter:

(1) two or more contiguous municipalities in the same county; or

(2) two noncontiguous municipalities located in the same county if:

(A) the distance between the municipalities is less than 2.5 miles; and

(B) each municipality is located within one mile of an international boundary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 473 (H.B. 2212), Sec. 1, eff. June 16, 2007.

Sec. 61.002. CONSOLIDATION ELECTION. A consolidation of municipalities under this chapter must be approved at an election ordered and held for that purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 61.003. PETITIONS TO CONSOLIDATE; ELECTION ORDERS. (a) If at least 100 qualified voters of each of two or more municipalities petition the governing bodies of their respective municipalities to order a consolidation election, the governing body of each municipality may order an election on the proposition in the sequence prescribed by Section 61.004. However, if a petition is signed by the number of qualified voters that equals 15 percent or more of the total vote cast at the most recent general election for municipal officials in a municipality, the governing body of the municipality shall order an election on the proposition, except as otherwise provided by this chapter.

(b) An election under this section shall be held at the municipality's regular polling places.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 61.004. SEQUENCE OF ELECTIONS; ELECTION DATES. (a) The municipality having the smallest population among the municipalities voting on the consolidation issue shall hold the first consolidation election. The governing body of a municipality holding an election shall order the election within 45 days after the date the petition is filed.

(b) If a majority of the votes received in an election are in favor of consolidation, each larger municipality in turn, in inverse order of their size of population, may or shall, as provided by Section 61.003, order a consolidation election. The governing body of a municipality holding an election shall order the election within 45 days after the date the election returns from the next smaller municipality are canvassed.

(c) If a majority of the votes received in a consolidation election in any municipality are not in favor of consolidation, a larger municipality that has not held an election on the consolidation issue may not order a consolidation election.

(d) If an election contest is timely filed in a consolidation election, the governing body of each larger municipality that has not held its consolidation election may delay holding the election until the election contest is finally determined.

(e) In the alternative to the procedures provided in Subsections (a)-(d), the governing body of each municipality holding a consolidation election may order the election to be held on the same election date.

(f) A consolidation election shall be held on the first authorized uniform election date prescribed by the Election Code that occurs after the period required by Section 3.005, Election Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 630 (H.B. 629), Sec. 1, eff. June 15, 2007.

Sec. 61.005. CONDUCT OF ELECTION. A consolidation election shall be conducted under the ordinances of the municipality holding the election and in conformity with the laws of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 61.006. APPROVAL AND REGISTRATION OF CONSOLIDATION. (a) If a majority of the votes received in the consolidation election in each municipality favor consolidation, the election returns shall be recorded in the records of the respective municipalities.

(b) The consolidation is effective when the election returns are recorded.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 61.007. CERTIFICATION OF CONSOLIDATION. If a majority of the votes received in each municipality favor consolidation, as soon as practicable after the returns are made, the mayor or chief executive officer in each municipality shall certify to the secretary of state an authenticated copy of the returns under the municipality's seal showing the approval of the consolidation by the voters of the municipality. The secretary of state shall file the authenticated copy and record it in a separate book the secretary of state shall keep for the purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 61.008. EFFECT OF CONSOLIDATION. In a consolidation under this chapter, the smaller municipalities:

(1) adopt the charter, ordinances, and, unless otherwise provided at the time of the consolidation, the name of the largest municipality;

(2) are included in the territory of the largest municipality; and

(3) are subject to the laws and regulations of the largest municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 61.009. MERGER OF CONSOLIDATED MUNICIPALITIES. (a) After a consolidation is effective, the records, public property, money, credits, accounts, and all other assets of the smaller of the consolidated municipalities shall be turned over to the officers of the largest municipality, who shall remain in office for the

remainder of their terms as the officials of the consolidated municipality.

(b) The offices of the smaller municipalities are abolished, and the persons holding the offices at the time the consolidation is effective are not entitled to receive further compensation.

(c) The consolidated municipality assumes all outstanding liabilities of the municipalities that are consolidated.

(d) If at the time a consolidation is effective a municipality has bond funds voted for public improvements that are not appropriated or subject to contract, the money shall be kept in a separate fund and used for public improvements in the territory for which the bonds were voted. The funds may not be diverted to any other purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 61.010. INTERVAL BETWEEN ELECTIONS. If a majority of the votes in a consolidation election in any municipality do not favor consolidation, another consolidation election involving the same municipalities may not be held within two years after the date the consolidation proposition was defeated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 62. ABOLITION OF MUNICIPALITIES

SUBCHAPTER A. AUTHORITY AND PROCEDURE

Sec. 62.001. ABOLITION OF CORPORATE EXISTENCE. A special-law municipality with 10,000 or fewer inhabitants or a general-law municipality may abolish its corporate existence as provided by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.002. PETITION AND ELECTION. (a) The mayor of the municipality shall order an election on the question of abolishing the municipality's corporate existence if a petition requesting that the election be held is submitted to the mayor and is signed by at least 400 qualified voters of the municipality. However, if a

majority of the qualified voters of the municipality is less than 400, the petition must be signed by at least two-thirds of the qualified voters of the municipality. If the municipality has less than 400 qualified voters and has no municipal debt and does not provide services that would be otherwise provided by the county, the petition must be signed by at least one-fourth of the qualified voters in the municipality.

(b) The mayor shall order the election to be held on the same date as the next general election at which the office of mayor is to be filled.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 8, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 329 (H.B. 2840), Sec. 1, eff. June 15, 2007.

Sec. 62.003. ELECTION ORDER; CONDUCT OF ELECTION. The election shall be ordered, conducted, and canvassed in the same manner as is required for an election to incorporate the municipality, except that the mayor of the municipality shall perform all acts that would be performed by the county judge.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.004. DECLARATION OF ABOLITION; CERTIFICATION. If a majority of the votes received in an abolition election are for abolition, the mayor of the municipality shall declare the municipality abolished and certify the abolition to the commissioners court of the county in which the municipality is located. The commissioners court shall enter the abolition order in its minutes, at which time the municipality ceases to exist.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. RECEIVERSHIPS

Sec. 62.041. APPLICATION FOR AND APPOINTMENT OF RECEIVER. (a) Any creditor of a validly incorporated municipality that abolishes

its corporate existence may apply to a district judge in the district in which the municipality is located to appoint a receiver for the municipality.

(b) After an application is filed and proper notice of the application is posted, the judge hearing the application in term time or vacation may appoint a suitable person as receiver.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.042. NOTICE OF APPLICATION. Before a judge may appoint a receiver, written notice stating the substance of the application for the appointment of the receiver and when and before whom the application will be heard must be posted at three or more public places in the county in which the municipality is located, one of which must be in the municipality itself.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.043. BOND. (a) A judge appointing a receiver shall set the receiver's bond at an amount that is at least twice the probable amount of the indebtedness or the value of the property of the municipality.

(b) The bond must be conditioned that the receiver will faithfully perform the duties of receiver and that the receiver will pay and deliver all money and property acquired as receiver to the parties entitled to the money or property.

(c) The bond must be approved by the judge who appoints the receiver.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.044. FILING AND RECORDING ORDER AND BOND. The district clerk of the county in which the abolished municipality is located shall file the receiver's bond and the order appointing the receiver with the minutes of the court, and the clerk shall record the order and the bond in the minutes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.045. DUTIES AND AUTHORITY. (a) After the receiver gives the required bond, and after the bond is filed and recorded, the receiver shall:

(1) take control of all real and personal property of the abolished municipality, including money, minute books, ordinances, and similar property, but not including property that pertains to the public schools or that is devoted exclusively to public use; and

(2) in the next term of the court in which the receivership is pending, return to the court an inventory of the property taken by the receiver.

(b) Under a court order, or an order of the judge if the court is in vacation, the receiver may bring suit against any person in possession of the property of an abolished municipality or who is indebted to it in the same manner as the municipality could if it were still incorporated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.046. COMPENSATION. A court appointing a receiver under this subchapter may authorize compensation for the receiver.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. PAYMENT OF INDEBTEDNESS AND DISPOSITION OF ASSETS UNDER RECEIVERSHIP

Sec. 62.081. PRESENTATION OF CLAIMS. A person who has a claim against an abolished municipality must present a verified statement of the amount of the claim to the receiver within six months after the date the receiver is appointed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.082. NOTICE OF CLAIMS. (a) A receiver may not allow or approve a claim or account against an abolished municipality until notice of presentment of the claim or account is given by publication in a newspaper in the municipality in which the claim is filed or

presented for four consecutive weeks or, if a newspaper is not published in the municipality, by posting the notice for four consecutive weeks at the door of the courthouse of the county in which the municipality is located.

(b) The published or posted notice must state:

(1) the name and residence address of the creditor;

(2) the amount and date of the claim and account; and

(3) the purpose for which the claim or account was incurred.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.083. APPROVAL OF CLAIMS. If the receiver of an abolished municipality determines a claim is correct, the receiver shall mark it as allowed and file it in the district court. The court shall also approve the claim at its next regular term if no protest is filed. On approval by the court, the claim is a valid debt of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.084. COMPLETE OR PARTIAL DISALLOWANCE OF CLAIM. (a) If a receiver of an abolished municipality determines that a claim is partially or completely unjust, the receiver shall endorse his finding on the claim and return it to the claimant.

(b) A claimant who accepts the findings of the receiver may file the claim with the district court. The court shall act on the part of the claim allowed in the same manner as other claims.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.085. TAXPAYER PROTEST. (a) A district court may not approve a claim against an abolished municipality until the full amount of the claim is established by the judgment of a court of competent jurisdiction if a taxpayer of the municipality:

(1) files a protest against the claim in the district court; and

(2) files a bond that is conditioned that the taxpayer will

pay all costs of suit if the claimant fully establishes his claim by the judgment of a state court with jurisdiction of the claim.

(b) The taxpayer's bond must be approved by the court in which it is filed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.086. SUITS TO ESTABLISH CLAIMS. (a) A claimant may bring a suit against the receiver of an abolished municipality to establish a claim the receiver completely or partially disallowed or to establish a claim protested by a taxpayer.

(b) The receiver shall assert all applicable legal defenses against a suit under this section.

(c) The court trying a suit under this section may hear and consider any material defense against the claim except limitation, even if the claim previously has been reduced to judgment. However, the court shall consider a prior judgment establishing the claim as prima facie evidence of the justness of the claim.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.087. ALLOWANCE AND APPROVAL OF ESTABLISHED CLAIMS. A receiver of an abolished municipality shall allow, and a district court shall approve, a claim that is established by a judgment against the receiver.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.088. LIABILITY FOR COSTS. (a) A claimant in a suit against the receiver of an abolished municipality who rejects part of the claimant's claim is liable for the costs of the suit unless the claimant establishes the claim in an amount greater than the amount allowed by the receiver.

(b) A claimant in a suit to establish his claim because of a taxpayer protest under Section 62.085 is liable for the costs of the suit unless the claimant obtains a judgment for the full amount he asked the district court to approve.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.089. LIMITATIONS. (a) Limitations do not begin to run, do not expire, and may not be pled to bar a claim against an abolished municipality until six months after the date a receiver is appointed for the municipality.

(b) A claimant may not bring a suit against the receiver of an abolished municipality on a claim that is partially or completely disallowed under Section 62.084 or against which a taxpayer files a protest under Section 62.085 after six months after the date the claim is disallowed or the protest is filed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.090. PAYMENT OF CLAIMS. The court in which the receivership of an abolished municipality is pending shall:

(1) provide for the payment of the claims legally established against the municipality;

(2) determine the priority of the claims;

(3) order the sale of all property held by the receiver that is subject to sale for the satisfaction of the municipality's indebtedness; and

(4) direct the receiver to pay the claims legally established against the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.091. ADDITIONAL TAX. (a) If the money of an abolished municipality and the proceeds from the sale of its property are insufficient to pay its indebtedness, at the request of any creditor the court in which the receivership is pending at its first regular term each year shall levy a tax on all real and personal property that is not exempt from taxation and that on the first day of January of the preceding year is located within the corporate limits of the municipality as those limits previously existed.

(b) The court shall levy a tax sufficient to discharge the municipality's indebtedness, except that the court may not set the tax at a rate that is greater than the rate allowed by law for such

purposes in municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.092. ASSESSMENT AND COLLECTION OF TAX. (a) The tax assessor-collector for the county in which an abolished municipality is located shall assess and collect a tax ordered under Section 62.091.

(b) The tax assessor-collector shall pay the taxes collected to the receiver for the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.093. DELINQUENT TAXES. A receiver for an abolished municipality may bring suit against a delinquent taxpayer and enforce a lien against the taxpayer's property in the same manner as if the corporate existence of the municipality had not been abolished and the levy and assessment had been made by the municipality's governing body and assessor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.094. DISTRIBUTION OF ASSETS. (a) The compensation of the receiver, court costs, and expenses have priority over other claims against an abolished municipality and shall be paid first out of money on hand or collected.

(b) Money collected each year from taxes shall be paid pro rata on claims according to their priorities until all claims established against the municipality and all costs and expenses are paid in full.

(c) After the final settlement of the receivership, the receiver shall deliver money or other property remaining to the trustees or other officers in charge of any public school district located completely within the boundaries of the abolished municipality, and the money or property shall be used for the benefit of the school district. If there is no such public school district, the receiver shall deliver the remaining money or property to the county in which the municipality is located. The money shall be deposited in the general fund of the county, and the property shall

be used for the benefit of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. SCHOOLS AND PUBLIC PROPERTY

Sec. 62.121. ADMINISTRATION OF PUBLIC SCHOOLS. If at the time a municipality is abolished under this chapter the public schools of the municipality are managed by trustees appointed or elected by the voters of the municipality or by its governing body, the trustees shall continue to manage the schools for the remainder of their appointive or elective term.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.122. TAXES. A receiver for an abolished municipality shall collect all unpaid taxes levied before the date of abolition for municipal or school purposes, together with any penalties or interest that is due. The receiver shall pay the part of the taxes levied for maintaining the public schools to the trustees of the school district, who shall use the taxes for the purpose for which they were levied.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.123. PUBLIC PROPERTY. If a municipality abolished under this chapter owns public buildings, public parks, public works, or other public property on the date of abolition and the property is not sold or disposed of under this chapter, the commissioners court shall manage and control the property for the purposes for which the property was originally used and intended. In managing and controlling the property, the commissioners court may exercise the powers originally given by charter to the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. PAYMENT OF INDEBTEDNESS AND DISPOSITION OF ASSETS BY

CORPORATE OFFICERS OR TRUSTEES

Sec. 62.161. SETTLEMENT BY CORPORATE OFFICERS. (a) If a municipality or de facto municipality that has indebtedness outstanding is abolished, declared void by a court of competent jurisdiction, or ceases to operate and exercise municipal functions, the municipality's officers at the time the municipality is dissolved or ceases to function shall:

(1) take control of the municipality's property;

(2) sell and dispose of the municipality's property; and

(3) settle the debts owed by the municipality.

(b) For the purpose of settling the debts of the municipality, the former municipal officers may levy and collect a tax on the residents of the municipality in the same manner as the municipality could have done.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.162. SETTLEMENT BY TRUSTEES. (a) If a municipality's officers fail or refuse to settle its affairs under Section 62.161, on the petition of any resident taxpayer of the municipality or any holder of an evidence of its indebtedness, a court with jurisdiction and located in the county in which the municipality is located shall appoint three trustees to take control of the municipality's property, dispose of the property, and settle its debts.

(b) The trustees have the same powers that municipal officers have under this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.163. ACTION FOR DEBT. (a) The holder of an indebtedness against a municipality to which Section 62.161 applies may bring a suit to establish the indebtedness in any court in this state with jurisdiction in the county in which the municipality is located. The court may render judgment in the suit against the municipality as fully as if the municipality had not been abolished or its organization declared void. The status of the municipality remains the same insofar as it affects the holders of its indebtedness until the indebtedness is paid.

(b) The municipality may be served with process in the suit by

serving the citation on a person who was or who acted as the mayor, the secretary, or the treasurer of the municipality at the time of the municipality's abolition.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER F. ABOLITION OF MUNICIPALITY CEASING TO HAVE RESIDENTS

Sec. 62.201. PETITION FOR ABOLITION. After the 120th day after the date a municipality ceases to have any persons residing within its boundaries, the owners of a majority of the land within the municipality may file a petition with a district court of the county in which all or a majority of the land in the municipality is located requesting the court to abolish the municipality.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 8(a), eff. Aug. 28, 1989.

Sec. 62.202. HEARING. (a) Before the 60th day after the date the petition is filed, the district judge of the court shall hold a hearing on the petition. Members of the public who wish to give testimony on the matter of abolishing the municipality must be given the opportunity to do so at the hearing.

(b) The district judge must publish notice of the hearing in a newspaper of general circulation in the county in which all or a majority of the land in the municipality is located. The notice must be published before the 10th day before the date of the hearing. The notice must state:

(1) the date, time, and place of the hearing;

(2) the purpose of the hearing; and

(3) the name of the municipality that is the subject of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 8(a), eff. Aug. 28, 1989.

Sec. 62.203. ABOLITION ORDER. At the conclusion of the hearing or within 10 days after the date the hearing is concluded, the district judge shall issue an order declaring the municipality to be abolished if the judge finds that a valid petition was filed and no persons reside within the municipality. The municipality ceases to

exist on the date the order is issued.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 8(a), eff. Aug. 28, 1989.

Sec. 62.204. NOTICE TO COMMISSIONERS COURT. On the issuance of the order abolishing the municipality, the district judge shall certify the abolition to the commissioners court of the county in which all or a majority of the land in the abolished municipality is located.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 8(a), eff. Aug. 28, 1989.

TITLE 3. ORGANIZATION OF COUNTY GOVERNMENT
SUBTITLE A. ORGANIZATION OF COUNTIES
CHAPTER 71. CREATION OF COUNTIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 71.001. CORPORATE AND POLITICAL BODY. A county is a corporate and political body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.002. PLACE FOR HOLDING TERMS OF COURTS IN NEW COUNTY BEFORE COUNTY SEAT IS DESIGNATED. Until the county seat of a new county is established, the terms of the district, county, and commissioners courts of the county shall be held at the place designated by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. ELECTION FOR DETACHMENT OR ATTACHMENT OF COUNTY TERRITORY

Sec. 71.011. APPLICATION AND ELECTION. (a) A part of a county may not be detached from one county and attached to another county unless the proposition for the change is approved by a majority of the voters in both counties as required by Article IX, Section 1, of the Texas Constitution.

(b) On the written application of at least 50 qualified voters

of a county, the county judge of the county shall order an election to consider detaching from the county a part of its territory or to consider attaching to the county a part of another county.

(c) The application must designate the part by a metes and bounds description and must show:

(1) the number of acres contained within the part;

(2) the number of acres remaining in the county from which the part is detached; and

(3) the distance on a direct line from the county seat of the county from which the part is detached to the nearest point on the boundary of the detached territory.

(d) The notice of the election must contain substantially the information included in the application and the election order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.012. ELECTION RESULTS. (a) The returns of each election shall be made to the county judge of the county in which the election is held.

(b) The county judge shall:

(1) estimate the vote;

(2) make duplicate statements of the estimate; and

(3) officially certify the statements.

(c) The county judge shall seal in an envelope one copy of the certified statement and a certified copy of the voters' application for the election. The judge shall write the judge's name across the seal of the envelope and shall endorse the envelope as "Election returns of _____ County." The judge shall send the material by mail or other safe conveyance to the speaker of the house of representatives at the State Capitol so that the material will be received as early as practicable during the next legislative session.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.013. SUBSEQUENT ELECTION. If the election is held in a county and the proposition to detach part of the county is defeated at the election, a subsequent election for the same purpose may not be ordered or held within five years after the date of the initial election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. ORGANIZATION OF COUNTIES

Sec. 71.021. ATTACHMENT OF COUNTIES. (a) Until a new county is legally organized, the territory of the new county remains subject to the county from which it is taken.

(b) A legally organized county that, for any reason, loses its county organization is attached to the organized county whose county seat is closest to that of the disorganized county. The attachment is made for judicial and surveying purposes and for the registration of a deed, mortgage, or other instrument that is required or permitted by law to be recorded. The disorganized county remains attached until it is again legally organized.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.022. ESTABLISHMENT OF PRECINCTS. (a) If a new county is established, the commissioners court of the county from which the largest part of the territory of the new county is taken shall, not later than one month before the date of the next scheduled general election:

(1) divide the new county into convenient precincts for the election of justices of the peace and constables; and

(2) select convenient polling places in the new county.

(b) The commissioners court shall direct the county clerk to make a record of its actions under this section and shall transmit a copy of that record to the person who is elected county judge of the new county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.023. ELECTION OF COUNTY OFFICERS. (a) Before one month before the date of the next scheduled general election after a new county is established, the county judge of the county from which the new county is taken shall order an election for county officers to be held in the new county on the general election day. The order shall specify the number of precincts, the precinct boundaries, and the officers to be elected in the new county.

(b) The county judge shall appoint a presiding officer to hold the election at each designated place in the new county. Each presiding officer shall hold the election in accordance with the state election laws and shall make the returns to the county judge who ordered the election.

(c) The county judge shall open and examine the returns, issue certificates of election to the persons elected, and approve the bonds of the elected officers.

(d) If the office of county judge is vacant, any two of the county commissioners may perform the duties required of the county judge under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.024. ORGANIZATION OF ATTACHED COUNTY. On the written petition of at least 75 qualified voters who are residents of a disorganized county, the commissioners court of the county to which the disorganized county is attached for judicial or other purposes shall legally organize the county without delay in the manner provided by this subchapter for the organization of new counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.025. DELIVERY TO NEW OFFICERS. The officers of a county from which a new county has been created or to which a newly organized county has been attached and all other persons who have in their possession books, records, maps, or other property that belongs to the new county shall deliver the material to the proper officers of the new county within five days after the date on which the new officers legally qualify.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. APPORTIONMENT OF COUNTY INDEBTEDNESS

Sec. 71.031. LIABILITY OF NEW COUNTY. (a) A new county is liable for a proportionate share of the indebtedness of the county from which it was created.

(b) The new county's liability is the amount that bears the

same ratio to the property value in the territory excised from the original county that the total indebtedness of the original county at the time of the creation of the new county bears to the total property value in the original county, including the value of the property in the territory excised from the original county.

(c) After organization of the new county, the commissioners court of the new county shall levy a tax on all property in the new county in order to pay the proportionate share of the indebtedness at the same tax rate as that set by the commissioners court of the original county for the payment of the debt.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.032. SUIT TO ENFORCE PAYMENT OF LIABILITY. (a) A county from which a new county has been created may sue to recover the new county's share of the original county's indebtedness. The suit may be brought in a district court of either county.

(b) If a suit is brought to enforce payment of the indebtedness created by the original county or of the excised territory's proportionate share of the indebtedness, the tax assessment rolls of the original county for the year in which the new county was created are conclusive evidence of the property remaining in the original county, the property in the excised territory, and the value of that property as of the date of the creation of the new county. However, if the new county was organized and made assessment rolls for the year in which it was created, those assessment rolls are conclusive evidence of the property in the new county and the taxable value of that property as of the date of the creation of the new county, and the assessment rolls of the original county for that year are conclusive evidence of the property remaining in the original county and the value of that property as of the date of the creation of the new county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.033. TAX TO PAY INDEBTEDNESS. (a) If the original county recovers in a suit brought under Section 71.032(a), the court that renders the judgment shall order the commissioners court of the newly created county to levy a special tax on all the property in the

territory taken from the original county in an amount that is sufficient to satisfy the judgment.

(b) If the first levy is insufficient to satisfy the judgment, the commissioners court shall make annual levies until the judgment is satisfied.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.034. LIABILITY OF ATTACHED TERRITORY. (a) If a part of a county is detached from a county and attached to another county, the attached territory remains liable for its proportionate share of the indebtedness of the county from which it was detached.

(b) The commissioners court of the county to which the territory is attached shall levy a tax in the territory at a rate sufficient to pay the territory's share of the indebtedness.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 71.035. COUNTY BONDS HELD BY SCHOOL FUND. (a) The comptroller of public accounts shall apportion between a county and a new county created from territory detached from the original county the bonds, and the coupons due on those bonds, that are held by the permanent school fund if the bonds were legally issued by the original county before the new county was created. The comptroller shall apportion the bonds and coupons in the manner provided by law.

(b) The commissioners courts of the original county and the new county shall levy a tax at a rate sufficient to pay each county's proportionate share of the bond debt.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 72. COUNTY BOUNDARIES

Sec. 72.001. BOUNDARY SURVEY; APPOINTMENT OF SURVEYOR. (a) If a county court finds, or is notified by the commissioner of the General Land Office, that the boundary or part of a boundary of the county is not sufficiently definite, the county court shall appoint an experienced and competent registered professional land surveyor to conduct a survey of the boundary in question. The surveyor shall

make and establish the boundary lines and corners in the manner prescribed by this chapter.

(b) In the order appointing the surveyor, the county court shall designate the boundary lines to be run and the boundary corners to be established and marked and shall conform to the law that defined the boundaries of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1091, Sec. 26, eff. Sept. 1, 1989.

Sec. 72.002. NOTICE TO ADJACENT COUNTY; APPOINTMENT OF ADDITIONAL SURVEYOR. (a) A county court that orders a boundary survey shall give notice of the survey to the county court of any other county that has an interest in the boundary by sending a copy of the order to the county court of that county. The notice must be given before the 10th day before the date on which the notified county court meets.

(b) The order must state the time and place for the beginning of the survey. The day scheduled for the beginning of the survey must be on or before the 20th day after the day on which the notified county court meets.

(c) The notified county court shall appoint an experienced and competent registered professional land surveyor to assist in the survey of the boundary lines in question.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1091, Sec. 27, eff. Sept. 1, 1989.

Sec. 72.003. BOUNDARY MARKERS. (a) The initial corners of the survey shall be designated by boundary markers.

(b) Only a post, a stone monument, or a mound may be used as a boundary marker.

(c) A post used as a boundary marker must be of hewn cedar, cypress, or bois d'arc. The post must be at least eight inches in diameter and at least five feet in length and must be set in the ground to a depth of at least three feet.

(d) A mound used as a boundary marker must be composed of stone if the use of stone is practicable. If the use of stone is not practicable, a mound may be composed of earth. A mound must be at

least two feet in height.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 72.004. DUTIES OF SURVEYOR; FIELD NOTES. (a) A surveyor appointed under this chapter shall describe the initial corners of the boundary lines on the boundary markers established at the corners. The surveyor shall supervise the establishment of additional boundary markers at one-mile intervals along the boundary line.

(b) In the field notes of the survey, the surveyor shall accurately describe all prominent natural objects that are crossed by or are adjacent to the boundary lines under survey, as well as the corners and lines of surveys on or near the boundaries.

(c) After each boundary line in question is surveyed and marked, the surveyor promptly shall return the field notes and map of the survey to the county court that appointed the surveyor.

(d) The county clerk shall record the field notes and map and shall deliver a certified copy of the notes and map to the General Land Office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 72.005. OATH AND BOND OF SURVEYOR. (a) Before performing duties under this chapter, a surveyor must take the oath of office prescribed by the constitution for appointed officers and must execute a bond conditioned that the surveyor will faithfully perform those duties.

(b) The bond must be in the amount of $1,000, must be payable to the county judge or the judge's successors in office, and must have two or more sureties who are approved by the county judge.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 72.006. PAYMENT OF EXPENSES. (a) The counties that have an interest in the boundary lines in question shall divide the expenses incurred in making the survey and establishing the boundary markers in proportion to each county's frontage on the line.

(b) A surveyor appointed under this chapter is entitled to receive the actual expenses incurred in making the survey and any fees for surveying services agreed on by the surveyor and the counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 991, Sec. 3, eff. Sept. 1, 1993.

Sec. 72.007. EFFECT OF FAILURE OF APPOINTED SURVEYOR TO APPEAR. If either of the surveyors appointed under Sections 72.001 and 72.002 is absent at the time and place scheduled for the beginning of the survey, the surveyor who is present shall conduct the survey alone and shall deliver the survey report to the county court that appointed that surveyor. On approval by that court, the report shall be recorded as evidence of the boundary line in question and shall be treated as the true boundary between the counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 72.008. EFFECT OF FAILURE TO AGREE ON BOUNDARY. (a) If the surveyors appointed under Sections 72.001 and 72.002 fail to agree on the boundary line in question between their respective counties, they shall report to the commissioner of the General Land Office the facts of the disagreement, with a full statement of the questions at issue.

(b) The commissioner shall examine the disputed matter at once. From the information maintained in the General Land Office, the commissioner shall designate to the surveyors the line to be run, stating at what specific point the surveyors shall begin and to what specific point they shall run the line. In the instructions to the surveyors, the commissioner shall adhere as closely as possible to the line designated in the law that created the county line. The instructions from the commissioner constitute authority for the surveyors to run that line. After the survey based on the commissioner's instructions, that line is the true boundary between the counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 72.009. SUIT TO ESTABLISH BOUNDARIES. (a) A county may bring suit against an adjacent county to establish the common boundary line. The suit must be brought in the district court of a county in an adjoining judicial district whose boundaries are not affected by the suit and whose county seat is closest to the county seat of the county that brings the suit. The court shall try the suit in the same manner in which it tries other suits.

(b) The district court has jurisdiction to determine where the boundary line is located and may order the line to be re-marked and resurveyed. The line established by the district court shall be treated as the true boundary between the counties unless the court determines that the line in question was established under prior law. If the district court determines that the boundary line has been established under prior law, the court shall declare that line to be the true boundary between the counties and shall have that line resurveyed and established as the boundary.

(c) The commissioner of the General Land Office may not mark a contested county line on the maps maintained by the land office until a certified copy of the final judgment is filed in the land office with a certified copy of the field notes of the boundary line established by the judgment.

(d) The remedy provided by this section is in addition to any other remedy prescribed by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 72.010. SUIT TO ESTABLISH BOUNDARIES OF AND TAXES OWED TO CERTAIN COUNTIES OR TAXING UNITS LOCATED IN THOSE COUNTIES. (a) In this section:

(1) "Like taxing units" means counties or other taxing units that are of the same type as one another and that by law may not include the same geographic territory.

(2) "Taxing unit" has the meaning assigned by Section 1.04, Tax Code.

(b) This section applies only to:

(1) a county that has a population of less than 400,000 and contains a municipality with a population of at least 300,000;

(2) a county that has a population of at least 50,000 and is adjacent to a county described by Subdivision (1); and

(3) a taxing unit other than a county that has territory in a county described by Subdivision (1) or (2).

(c) If, as a result of disputed, overlapping, or erroneously applied geographic boundaries between like taxing units, multiple like taxing units have imposed ad valorem taxes on the same property, the property owner may file suit in the supreme court to:

(1) establish the correct geographic boundary between the taxing units; and

(2) determine the amount of taxes owed on the property and the taxing unit or units to which the taxes are owed.

(d) The supreme court has original jurisdiction to hear and determine a suit filed under Subsection (c) and may issue injunctive or declaratory relief in connection with the suit.

(e) The supreme court shall enter a final order determining a suit filed under Subsection (c) not later than the 90th day after the date the suit is filed.

Added by Acts 2017, 85th Leg., R.S., Ch. 768 (S.B. 2242), Sec. 1, eff. June 12, 2017.

CHAPTER 73. LOCATION OF COUNTY SEAT

SUBCHAPTER A. COUNTY SEAT IN NEWLY ORGANIZED COUNTY

Sec. 73.001. ELECTION REQUIREMENT. If a new county is organized, the county judge who conducts the election for officers for the new county shall order an election for the location of the county seat. The election shall be conducted in the same manner as an election for county officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 73.002. VOTE REQUIRED FOR LOCATION. The location that receives the majority of votes cast in the election is the county seat. However, a county seat first established in a newly organized county may not be located more than five miles from the geographic center of the county unless at least two-thirds of the voters voting in the election on the subject vote for the site.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. RELOCATION OF COUNTY SEATS

Sec. 73.011. APPLICATION FOR RELOCATION ELECTION. (a) The county judge of a county shall order an election on the question of the relocation of the county seat of the county if an application for the relocation election is made by at least 100 resident freeholders and qualified voters of the county. However:

(1) if the county seat has been established in the same location for more than 10 years but for 40 years or less and the county has 350 or more voters, to be determined by the number of votes cast in the county in the most recent general election, at least 200 resident freeholders and qualified voters must make the application; or

(2) if the county has 150 or fewer qualified voters or if the county seat has been established in the same location for more than 40 years, a majority of the resident freeholders and qualified voters of the county, as determined by the county judge from the county assessment rolls, must make the application.

(b) If the county judge fails, refuses, or is unable to perform a duty imposed on the judge by this section, that duty may be performed by any two county commissioners of the county.

(c) An order under this section must be in writing and entered in the minutes of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 73.012. DESIGNATION OF GEOGRAPHIC CENTER OF COUNTY. (a) On notification by a county judge that a proposition to relocate the county seat has been submitted to the people of the county or that it is desirable that the center of the county be designated, before the relocation of the county seat, the commissioner of the General Land Office shall designate the geographic center of the county based on the maps, surveys, and other information on file in the General Land Office. The commissioner shall certify the center to the county judge.

(b) The county judge shall enter the commissioner's designation in the county deed records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 73.013. ELECTION REQUIREMENTS. (a) A relocation election must be held on the first election date that is authorized by Chapter 41, Election Code, and that occurs after the 30th day after the date of the order.

(b) The election shall be ordered to be held in each voting precinct in the county and shall be held, insofar as possible, in the same manner as an election for county officers. The ballot shall be printed to provide for voting for or against the proposition: "Moving the county seat from _____ (name of the place) to _____ (name of the place)."

(c) The requirements of this subsection are in addition to those imposed by Article IX, Section 2, of the Texas Constitution relating to the number of votes that are necessary to move a county seat in certain cases. A two-thirds vote of the voters voting at the election is required to move a county seat located:

(1) more than five miles from the geographic center of the county to another site more than five miles from the center; or

(2) within five miles of the geographic center of the county to another site within five miles of the center.

(d) The geographic center of the county shall be determined by a certificate from the commissioner of the General Land Office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 73.014. ELECTION RESULTS; RELOCATION OF COUNTY SEAT. (a) Within 10 days after the date the relocation election is held, the officers who conduct the election shall bring the election returns to the county judge or the county commissioners who ordered the election.

(b) The county judge or county commissioners shall tabulate the returns and declare the result.

(c) In the records of the commissioners court, the county judge or county commissioners shall enter the result of the election, the name of the original site of the county seat, and the name of the new site if the election results in relocation.

(d) A certified copy of the entry shall be recorded in the county deed records.

(e) After the entry is made, a county seat that is changed by the election is relocated to the new site.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 73.015. SUBSEQUENT RELOCATION. After an election for the location or removal of a county seat has been held and the question settled, an application for another relocation of the county seat may not be submitted within 10 years after the date of the last election. However, an application may be submitted and a relocation election held within two years after the date of the last election to move a county seat from a site more than five miles from a railroad operating as a common carrier to a site on a railroad.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBTITLE B. COMMISSIONERS COURT AND COUNTY OFFICERS

CHAPTER 81. COMMISSIONERS COURT

SUBCHAPTER A. ORGANIZATION AND PROCEDURE

Sec. 81.001. COMPOSITION, PRESIDING OFFICER. (a) The members of the commissioners court are the county judge and the county commissioners.

(b) If present, the county judge is the presiding officer of the commissioners court. This subsection does not apply to a meeting held under Section 551.127, Government Code, if the county judge is not located at the physical space made available to the public for the meeting.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 5 (S.B. 988), Sec. 1, eff. May 10, 2017.

Sec. 81.002. OATH, BOND. (a) Before undertaking the duties of the county judge or a county commissioner, a person must take the official oath and swear in writing that the person will not be interested, directly or indirectly, in a contract with or claim against the county except:

(1) a contract or claim expressly authorized by law; or

(2) a warrant issued to the judge or commissioner as a fee of office.

(b) A commissioner must execute a bond, payable to the county treasurer, in the amount of $3,000. The bond must be approved by the county judge and must be conditioned on the faithful performance of the commissioner's official duties. The bond must also be conditioned that the commissioner:

(1) will reimburse the county for all county funds illegally paid to the commissioner; and

(2) will not vote or consent to make a payment of county funds except for a lawful purpose.

(c) Subject to the provisions of Chapter 171, the county judge or a county commissioner may serve as a member of the governing body of or as an officer or director of an entity that does business with the county, excluding a publicly traded corporation or a subsidiary, affiliate, or subdivision of a publicly traded corporation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 475, Sec. 1, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 62, Sec. 13.02, eff. Sept. 1, 1999.

Sec. 81.0025. CONTINUING EDUCATION. (a) A county commissioner must successfully complete at least 16 hours of continuing education in the performance of the duties of county commissioners at least once in each 12-month period.

(b) Continuing education instruction required by this section must be certified by an accredited public institution of higher education. The instruction may be completed online with the approval of the commissioners court, except a county commissioner must complete the instruction in person in the first 12-month period of the commissioner's first term.

(c) To satisfy the requirement of this section, a commissioner is entitled to carry forward from one 12-month period to the next not more than eight continuing education hours that the commissioner completes in excess of the required 16 hours.

(d) For the purposes of removal under Subchapter B, Chapter 87, "incompetency" in the case of a county commissioner includes the failure to complete hours of continuing education in accordance with this section.

(e) This section does not apply to a county commissioner who:

(1) serves in a county with a population of 1.3 million or

more;

(2) meets at least one of the following requirements:

(A) has served continuously for 12 years or more; or

(B) is an attorney licensed to practice law in this state for 12 years or more and has completed at least 64 hours of continuing education approved by the County Judges and Commissioners Association of Texas; and

(3) attends at least 15 hours of staff briefing on continuing education subjects in each 12-month period as approved by the County Judges and Commissioners Association of Texas.

(f) In addition to the exceptions under Subsection (e), this section does not apply to a county commissioner who serves in a county with a population of 225,000 or more and who:

(1) has served continuously for 12 years or more; and

(2) in the 12-month period, completes at least three semester credit hours of graduate-level course work in a field of study directly related to county government with a grade of B or higher in each course completed during the period.

Added by Acts 1989, 71st Leg., ch. 413, Sec. 1, eff. Jan. 1, 1990. Amended by Acts 1991, 72nd Leg., ch. 111, Sec. 1, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 294, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1235, Sec. 1, eff. Jan. 1, 1998; Acts 2003, 78th Leg., ch. 454, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 750 (H.B. 1879), Sec. 1, eff. June 17, 2015.

Acts 2021, 87th Leg., R.S., Ch. 144 (S.B. 230), Sec. 1, eff. May 26, 2021.

Sec. 81.003. CLERK. (a) The county clerk is the clerk of the commissioners court. The clerk shall:

(1) serve the court during each of its terms;

(2) keep the court's books, papers, records, and effects; and

(3) issue the notices, writs, and process necessary for the proper execution of the court's powers and duties.

(b) The court shall require the clerk to record the proceedings of each term of the court. This record may be in a paper or

electronic format. After each term the clerk shall attest to the accuracy of this record.

(c) The clerk shall record the court's authorized proceedings between terms. This record may be in a paper or electronic format. The clerk shall attest to the accuracy of the record.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 301, Sec. 4, eff. Sept. 1, 2003.

Sec. 81.004. SEAL. (a) The commissioners court shall have a seal on which is engraved:

(1) the words "Commissioners Court, (name of county) County, Texas"; and

(2) a five-pointed star or a design selected by the court and approved by the secretary of state.

(b) The clerk shall keep the seal and use it to authenticate official acts of the court or its presiding officer or clerk that require a seal for authentication.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 81.005. TERMS OF COURT, MEETINGS. (a) At the last regular term of each fiscal year of the county, the commissioners court by order shall designate a day of the week on which the court shall convene in a regular term each month during the next fiscal year. If the completion of the court's business does not require a monthly term, the court need not hold more than one term a quarter. A regular term may continue for one week but may be adjourned earlier if the court's business is completed.

(b) The county judge or three county commissioners may call a special term of the court. A special term may continue until the court's business is completed. A special term may be held at a meeting place located in the county and outside the county seat if:

(1) the commissioners court agrees to meet in that location; and

(2) the meeting place is in a building providing public access that can accommodate the number of persons expected to attend the meeting.

(c) Except as provided by Subsections (b) and (f) of this

section, the term shall be held at:

(1) the county seat at the courthouse;

(2) an auxiliary courthouse, courthouse annex, or another building in the county acquired by the county under Chapter 292, 293, or 305 or another law, that houses county administration offices or county or district courts, located inside the municipal limits of the county seat;

(3) the regular meeting place of another political subdivision if:

(A) the commissioners court meets with the governing body of that political subdivision located wholly or partly within the county; and

(B) the regular meeting place of that political subdivision is in the county;

(4) a meeting place in the county in a building owned by another political subdivision located wholly or partly in the county if:

(A) the commissioners court meets with the governing body of that political subdivision;

(B) the places where the commissioners court and the governing body of the political subdivision regularly hold their meetings are not large enough to accommodate the number of persons expected to attend the meeting; and

(C) the meeting place in the building owned by the political subdivision is large enough to accommodate the expected number of persons; or

(5) a meeting place in the county in a building owned by the county if:

(A) the place where the commissioners court regularly holds its meetings is not large enough to accommodate the number of persons expected to attend the meeting; and

(B) the meeting place in the building owned by the county is large enough to accommodate the expected number of persons.

(d) At the first regular term of each calendar year, the commissioners court may select, on no less than seven days notice, a new site at which terms are to be held during that year pursuant to Subsection (c)(2).

(e) On initial enactment of this legislation the county commissioners court may select a new site pursuant to Subsection (c)(2) on seven days notice and passage at a regular meeting of

commissioners court.

(f) If the commissioners court determines that in the interest of public safety the term should be held at a site other than the site selected under Subsection (d), the commissioners court may, after notice, hold a term at a different site as determined by the commissioners court.

(g) Any business of the commissioners court that is required by law to be conducted at a regular term may also be conducted at any meeting of the court held on a day on which the court routinely and periodically meets, regardless of whether the periodic interval is weekly, monthly, quarterly, annually, or some other interval.

(h) The commissioners court may designate a day of the week on which the court shall convene in a regular term each month other than the day of the week designated under Subsection (a).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 601, Sec. 1, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 19.01(33), eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 643, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 391, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 13.13, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 593, Sec. 1, eff. June 11, 2001.

Sec. 81.006. QUORUM; VOTE REQUIRED FOR TAX LEVY. (a) Three members of the commissioners court constitute a quorum for conducting county business except the levying of a county tax.

(b) A county tax may be levied at any regularly scheduled meeting of the court when at least four members of the court are present.

(c) A county may not levy a tax unless at least three members of the court vote in favor of the levy.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 81.007. NOTICE. (a) If the commissioners court is unable to obtain publication of a notice or report as required by law, the court may post a copy of the notice or report at the courthouse door and post one copy at a public place in each commissioner's precinct. However, not more than one copy may be posted in the same

municipality.

(b) Posting must continue for the 30 days preceding the date the next court term begins.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. DUTIES AND POWERS

Sec. 81.021. CHANGE IN PRECINCT BOUNDARIES. (a) A commissioners court that orders a change in the boundaries of commissioner or justice precincts may specify in its order an effective date of the change that is not later than January 1 following the next general election. An election for precinct office occurring after the date that the order is issued but before the effective date of the change in boundaries shall be held in the precincts as they will exist on that effective date. A person who has resided in the area included in a new precinct for the period required for eligibility to hold office is not made ineligible on the ground that the precinct has not existed for that period.

(b) The term of office of a commissioner, justice of the peace, or constable who holds office at the time a change in precinct boundaries becomes effective is not affected by the change, regardless of whether the change places the officer's residence outside the precinct for which the officer was elected. The officer is entitled to serve for the remainder of the term to which the officer was elected.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 81.022. PROCESS. (a) The commissioners court shall issue the notices, citations, writs, and process necessary for the proper execution of its powers and duties and the enforcement of its jurisdiction. A notice, citation, writ, or process must:

(1) be in the name of the "State of Texas";

(2) be directed to the sheriff or a constable of a county;

(3) be dated and signed officially by the clerk; and

(4) be impressed with the court seal.

(b) Unless otherwise provided by law, process must be executed before the fifth day before its return date. The return date shall be specified in the process.

(c) A subpoena for a witness may be executed and returned immediately if necessary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 81.023. CONTEMPT. The commissioners court shall punish a person held in contempt by a fine of not more than $25 or by confinement for not more than 24 hours. A person fined under this section may be confined until the fine is paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 81.024 by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(d), eff. Sept. 1, 1999.

Sec. 81.024. DISTRICT AND COUNTY COURT SEALS. The commissioners court shall provide the seals required by law for district and county courts.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 81.025 by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(d), eff. Sept. 1, 1999.

Sec. 81.025. COUNTY RISK MANAGEMENT POOL COVERAGE INSTEAD OF BONDS. (a) Instead of a bond required by law to be executed by a county officer before taking office, the commissioners court may authorize the officer to obtain coverage from a county government risk management pool created under Chapter 119.

(b) Coverage obtained under this section must:

(1) be in an amount that is at least equal to the amount of the bond that would otherwise be required by law;

(2) satisfy all other conditions applicable to the bond; and

(3) be approved, recorded, and filed in the manner required by law for the bond.

(c) An officer who obtains coverage instead of a bond under this section satisfies the bond requirements that are imposed on the individual by other law.

(d) To the extent of a conflict between this section and other

law, this section controls.

(e) This section does not apply to coverage obtained under Section 43.002 or 44.002, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 439 (S.B. 1243), Sec. 1, eff. June 17, 2011.

Sec. 81.026. COMMISSIONERS COURT MEMBERSHIP ON ASSOCIATIONS AND NONPROFIT ORGANIZATIONS. A county judge or county commissioner may serve on the governing body of or any committee serving an association of counties created or operating pursuant to the provisions of Section 89.002. A county judge or county commissioner may serve as a member of any board of trustees or board of directors or other governing body of any trust or other entity created pursuant to interlocal contract for the purpose of forming or administering any governmental pool, self-insurance pool, insurance pool, or any other fund or joint endeavor created for the benefit of member counties and political subdivisions. In addition, a county judge or county commissioner may serve as a member of the board of directors of any nonprofit corporation that is created and exists solely for the purpose of providing administrative or other services to such trust or other entity. A county judge or county commissioner, acting as a member of any such board or committee, may perform any act necessary or appropriate for the rendition of such service, including the casting of votes and deliberations concerning and execution of contracts or claims with or against any county. A county judge or commissioner may participate in deliberations concerning and cast any vote on any matter before the commissioners court affecting the execution of any contract with or the payment of claims, premiums, dues, or contributions to any such trust, association, nonprofit corporation, or entity or any related matter.

Added by Acts 1989, 71st Leg., ch. 1133, Sec. 1, eff. Aug. 28, 1989. Renumbered from Sec. 81.027 and amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(c), eff. Sept. 1, 1999.

Sec. 81.027. SUPPORT OF PAUPERS. Each commissioners court may provide for the support of paupers, residents of their county, who are unable to support themselves.

Added by Acts 1993, 73rd Leg., ch. 1042, Sec. 1, eff. Sept. 1, 1993. Renumbered from Sec. 81.028 and amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(d), 13.11(a), eff. Sept. 1, 1999.

Sec. 81.028. DELEGATION OF DUTIES OF COUNTY JUDGE IN CERTAIN COUNTIES. (a) This section applies only to a county judge in a county:

(1) with a population of more than 1.5 million; or

(2) with a population of at least 350,000 and not more than 370,000 that is adjacent to the Gulf of Mexico and adjacent to a county with a population of at least 3.3 million.

(b) A county judge may file an order with the commissioners court of the county delegating to another county officer or an employee of the county the ability to sign orders or other official documents associated with the county judge's office. The delegating order shall clearly indicate the types of orders or official documents that the officer or employee may sign on behalf of the county judge.

(b-1) A county judge may file a standing order of emergency delegation of authority that clearly indicates the types of orders or official documents that the officer or employee may sign on behalf of the county judge in the event of an emergency or disaster.

(c) An order or official document signed by a county officer or county employee acting under the delegated authority of the county judge in accordance with this section has the same effect as an order of the county judge.

(d) The county judge may at any time revoke the delegated authority or transfer it to a different county officer or county employee by filing an order with the commissioners court of the county.

Added by Acts 1995, 74th Leg., ch. 143, Sec. 1, eff. Aug. 28, 1995. Renumbered from Sec. 81.029 by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(d), eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 13, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 66, eff. September 1, 2011.

Acts 2025, 89th Leg., R.S., Ch. 583 (H.B. 2273), Sec. 1, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 583 (H.B. 2273), Sec. 2, eff. September 1, 2025.

Sec. 81.029. DELEGATION OF DUTIES OF COUNTY JUDGE TO COUNTY COMMISSIONER IN CERTAIN COUNTIES. (a) This section applies only to a county judge in a county that has a population of more than 800,000 and is located on the international border, other than a county to which Section 81.0291 applies.

(b) A county judge may file an order with the commissioners court of the county delegating to a county commissioner of the commissioners court the ability to sign orders or other official documents associated with the county judge's office. The delegating order must clearly indicate the types of orders or official documents that the county commissioner may sign on behalf of the county judge.

(c) A county judge may file a standing order of emergency delegation of authority that clearly indicates the types of orders or official documents that the county commissioner may sign on behalf of the county judge in the event of an emergency or disaster.

(d) An order or official document signed by the county commissioner under the delegated authority of the county judge under this section has the same effect as an order of the county judge.

(e) The county judge may at any time revoke the delegated authority or transfer the authority to a different county commissioner by filing an order with the commissioners court.

Added by Acts 2009, 81st Leg., R.S., Ch. 708 (H.B. 2835), Sec. 1, eff. June 19, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 67, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 640 (H.B. 784), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 125, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 13.001, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 583 (H.B. 2273), Sec. 3, eff.

September 1, 2025.

Sec. 81.0291. DELEGATION OF CERTAIN AUTHORITY OF COUNTY JUDGE OR COMMISSIONERS COURT IN CERTAIN COUNTIES. (a) This section applies only to a county that:

(1) has a population of more than 800,000;

(2) is located on the international border; and

(3) borders another state.

(b) A county judge may file an order with the commissioners court of a county delegating to a county commissioner of the commissioners court, a chief administrator, or another county officer or employee the ability to sign orders or other official documents associated with the county judge's office. The delegating order must clearly indicate the types of orders or official documents that the county commissioner, chief administrator, officer, or employee may sign on behalf of the county judge.

(c) A county judge may file a standing order of emergency delegation of authority that clearly indicates the types of orders or official documents that the county commissioner, chief administrator, officer, or employee may sign on behalf of the county judge in the event of an emergency or disaster.

(d) An order or official document signed by the county commissioner, chief administrator, officer, or employee under the delegated authority of the county judge under this section has the same effect as an order of the county judge.

(e) The county judge may at any time revoke the delegated authority or transfer the authority to a different county commissioner, chief administrator, officer, or employee by filing an order with the commissioners court.

(f) The commissioners court by order may delegate managerial authority of the commissioners court to a county chief administrator. The delegating order must clearly indicate the specific managerial authority delegated to the administrator. By subsequent order, the commissioners court may revoke or modify the managerial authority delegated to the administrator.

Added by Acts 2023, 88th Leg., R.S., Ch. 640 (H.B. 784), Sec. 2, eff. September 1, 2023.

Sec. 81.030. TESTIMONY BEFORE COMMISSIONERS COURT. The commissioners court may require that testimony before the court be given under oath. A person who makes a false statement under oath is subject to prosecution under Section 37.02, Penal Code.

Added by Acts 1997, 75th Leg., ch. 390, Sec. 1, eff. May 28, 1997. Renumbered from Sec. 81.031 by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(d), eff. Sept. 1, 1999.

Sec. 81.032. ACCEPTANCE OF DONATIONS AND BEQUESTS. (a) The commissioners court may accept a donation of labor or services, gift, grant, donation, bequest, or devise of money or other property on behalf of the county, including a donation under Chapter 38, Government Code, for the purpose of performing a function conferred by law on the county or a county officer.

(b) The commissioners court may not accept a donation described in Subsection (a) of over $1,000 for use in administering elections without the written consent of the secretary of state.

(c) The secretary of state may grant consent under Subsection (b) only if:

(1) the secretary consults with the governor, the lieutenant governor, and the speaker of the house of representatives on the proposed donation; and

(2) the governor, the lieutenant governor, and the speaker of the house of representatives unanimously agree to the secretary's grant of consent.

Added by Acts 1999, 76th Leg., ch. 172, Sec. 1, eff. Aug. 30, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 40, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.002(11), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1081 (H.B. 3470), Sec. 1, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 1000 (H.B. 2283), Sec. 3, eff. September 1, 2021.

Sec. 81.033. POWER OF COMMISSIONERS COURT IN COUNTY WITH NO

INCORPORATED TERRITORY. (a) This section applies only to a commissioners court of a county that has a population of more than 4,500, is located within 100 miles of an international boundary, and contains no incorporated territory of a municipality.

(b) If approved at an election held in the county for that purpose, the commissioners court has, in addition to the powers given to it under this code or other law, all the powers of the governing body of a Type A general-law municipality, including the powers contained in Subtitle A, Title 7, except that:

(1) the commissioners court may not regulate an activity outside the county;

(2) the commissioners court may not regulate a tract of land that is appraised as agricultural or open-space land by the appraisal district;

(3) the commissioners court may not exercise the powers of a municipality under Chapter 211 or 213; and

(4) if this code or other law provides for a procedure by which a county exercises a power, the commissioners court must use that procedure.

(c) For an election under this section, the ballot shall be prepared to permit voting for or against the proposition: "Granting (name of county) County the authority to enact ordinances in the same manner as a general-law municipality."

(d) If a majority of the votes cast at the election favor the proposition, the commissioners court has the powers described by Subsection (b).

(e) If territory of the county becomes incorporated in a municipality:

(1) in the area outside the municipality and outside the municipality's extraterritorial jurisdiction, the authority of the commissioners court to exercise a power under this section:

(A) expires, on the date of the incorporation, with regard to a subject on which the court has not previously acted under this section; and

(B) continues with regard to a subject on which the court has previously acted under this section; and

(2) in the area in the municipality or in the extraterritorial jurisdiction of the municipality, the authority of the commissioners court to exercise a power under this section expires on the 180th day after the date of the municipal

incorporation.

(f) On receipt of a petition signed by at least 10 percent of the county's registered voters, the commissioners court shall call an election on the repeal of an order or ordinance authorized by this section on the first uniform election date that occurs after the 90th day after the date the petition is filed. The order or ordinance is repealed if a majority of the votes cast at the election favor repeal. A petition requiring an election under this subsection may not be filed sooner than the fifth anniversary of the date of an election held under this subsection.

Added by Acts 2003, 78th Leg., ch. 1029, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 1, eff. June 15, 2007.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 126, eff. September 1, 2023.

Sec. 81.034. ELIGIBILITY OF COUNTY WITH NO INCORPORATED TERRITORY TO PARTICIPATE IN MUNICIPAL ASSISTANCE PROGRAMS. A county that contains no incorporated territory of a municipality is eligible to apply on behalf of locations in the county that are census designated places as if the places were municipalities for the purpose of participating in any federal or state program that provides grants, loans, or other assistance to municipalities.

Added by Acts 2007, 80th Leg., R.S., Ch. 314 (H.B. 2095), Sec. 1, eff. September 1, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 331 (H.B. 807), Sec. 1, eff. September 1, 2009.

CHAPTER 82. COUNTY CLERK

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 82.001. SURETY BOND AND OATH OF COUNTY CLERK; SELF-INSURANCE. (a) The county clerk must, before beginning to perform the duties of office, execute a bond either with four or more good and sufficient sureties or with a surety company authorized to do business in the state as a surety.

(b) In lieu of the clerk obtaining the bond, the county may self-insure against losses that would have been covered by the bond.

(c) The bond must be:

(1) approved by the commissioners court;

(2) made payable to the county;

(3) conditioned that the clerk will faithfully perform the duties of office; and

(4) in an amount equal to at least 20 percent of the maximum amount of fees collected in any year during the term of office preceding the term for which the bond is to be given, but not less than $5,000 or more than $500,000.

(d) The clerk must take and subscribe the official oath, which must be endorsed on the bond if the bond is required. The bond and oath shall be recorded in the county clerk's office and deposited in the office of the clerk of the district court.

(e) An injured party in a suit to which the county is a party may use and enter in the record in the suit a certified copy of the bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 9(a), eff. Aug. 28, 1989.

Sec. 82.002. SURETY BOND ON DEPUTY CLERKS AND EMPLOYEES; SELF-INSURANCE. (a) Except as provided by Subsection (b), the county clerk shall execute one or more surety bonds in accordance with this section to cover each deputy clerk or other employee. The county clerk shall execute:

(1) an individual bond for each deputy clerk and other employee in an amount for each bond that is equal to the county clerk's bond; or

(2) a schedule surety bond or a blanket surety bond to cover all deputy clerks and all other employees in a total amount that is equal to the county clerk's bond.

(b) In lieu of a clerk obtaining a bond as required by Subsection (a), the county may self-insure against losses that would have been covered by the bond.

(c) A bond covering a deputy clerk or other employee must be conditioned in the same manner as the county clerk's bond. A bond covering a deputy clerk or other employee must be made payable to the

county for the use and benefit of the county clerk.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 9(a), eff. Aug. 28, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 179 (H.B. 1494), Sec. 3, eff. September 1, 2019.

Sec. 82.003. ERRORS AND OMISSIONS INSURANCE; CONTINGENCY FUND. (a) The county clerk shall obtain an insurance policy or similar coverage from a governmental pool operating under Chapter 119 covering the clerk and each deputy clerk against liability incurred through errors and omissions in the performance of their official duties.

(b) The policy or other coverage document must be in an amount equal to the maximum amount of fees collected in any year during the term of office preceding the term for which the policy is to be obtained. However, the policy or other coverage document must be in an amount of at least $10,000 but is not required to exceed $500,000. If the policy or other coverage document provides coverage for other county officials, the policy or other coverage document must be in an amount of at least $1 million.

(c) The commissioners court may establish a contingency fund to provide the coverage required by this section if it is determined by the county clerk that insurance coverage is unavailable at a reasonable cost.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 9(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 561, Sec. 3, eff. Aug. 30, 1993.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.01, eff. January 1, 2022.

Sec. 82.004. PREMIUMS. The commissioners court of a county shall pay out of the general fund of the county the premiums for a bond or insurance policy required by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 82.005. APPOINTMENT, OATH, AND POWERS OF DEPUTY CLERK. (a) An appointment by the county clerk of a deputy clerk must be in writing, be signed by the county clerk, and bear the seal of the county court. The county clerk shall record the appointment in the county clerk's office and shall deposit it in the office of the district clerk.

(b) A deputy clerk must take the official oath.

(c) A deputy clerk acts in the name of the county clerk and may perform all official acts that the county clerk may perform.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. MISCELLANEOUS POWERS AND DUTIES

Sec. 82.051. ELECTRONIC DISPLAY OF OFFICIAL AND LEGAL NOTICES BY COUNTY CLERK. (a) In this section, "electronic display" includes a display:

(1) by the use of an electronic kiosk, electronic bulletin board, or other similar device designed to provide readily accessible information; or

(2) on a county's public Internet website.

(b) A county clerk may post an official and legal notice, including the agenda for a meeting of the commissioners court, by electronic display instead of posting a physical document. An electronic display of information posted under this section using a device described by Subsection (a)(1) must meet the location, time, and accessibility requirements provided by law for the posting of the notice. An electronic display of information posted under this section on a county's public Internet website must meet the time requirements provided by law for the posting of the notice.

Added by Acts 2009, 81st Leg., R.S., Ch. 968 (H.B. 3601), Sec. 2, eff. June 19, 2009.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 475 (H.B. 5534), Sec. 1, eff. September 1, 2025.

CHAPTER 83. COUNTY TREASURER

Sec. 83.001. ELECTION. The county treasurer is elected at each general election in which the office of governor is to be filled for a full term.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 83.002. BOND. (a) The county treasurer, before beginning to perform the duties of office, must execute a bond with a surety company authorized to do business in this state as a surety. The bond must be:

(1) approved by the commissioners court;

(2) made payable to the county judge in an amount established by the commissioners court not to exceed one-half of one percent of the largest amount budgeted for general county maintenance and operations for any fiscal year of the county beginning during the term of office preceding the term for which the bond is to be given except that the amount may not be less than $5,000 or more than $500,000; and

(3) conditioned that the treasurer will faithfully execute the duties of office.

(b) The treasurer must take and subscribe the official oath, which must be endorsed on the bond. The bond and the oath shall be recorded in the county clerk's office. The commissioners court may, at any time, require the treasurer to obtain a new or additional bond if the court considers the existing bond insufficient or doubtful. The bond may not exceed the maximum amount provided by Subsection (a). The bond must be acquired within 20 days after the date notice of the requirement has been given by the commissioners court. The failure of a treasurer to obtain a bond required by this subsection subjects the treasurer to removal under Section 83.004.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 605, Sec. 1, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 1097, Sec. 2, eff. Aug. 30, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 335 (S.B. 1108), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 14, eff. September 1, 2005.

Sec. 83.003. CONTINUING EDUCATION. (a) A county treasurer must successfully complete an introductory course of instruction in the performance of the duties of county treasurer:

(1) within one year after the date on which the person is first elected if elected to a full term; or

(2) at the earliest available date after appointment or election, as applicable, if appointed by the commissioners court or elected to an unexpired term of county treasurer.

(b) After completion of the first year in office, a county treasurer must successfully complete in each 12-month period at least 20 hours of continuing education in the performance of the duties of county treasurer.

(c) The introductory course required by Subsection (a) and the continuing education required by Subsection (b) must be sponsored or cosponsored by an accredited public institution of higher education.

(d) To satisfy the requirement of Subsection (b), a county treasurer may carry forward from one 12-month period to the next not more than 10 continuing education hours that the county treasurer completes in excess of the required 20 hours.

(e) For purposes of removal under Subchapter B, Chapter 87, "incompetency" in the case of a county treasurer includes the failure to complete a course in accordance with this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 42, Sec. 1, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 313, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 875 (S.B. 1106), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 15, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 3, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 66 (S.B. 435), Sec. 2, eff. September 1, 2015.

Sec. 83.004. REMOVAL FROM OFFICE; FILLING OF VACANCY. (a) If a person elected to the office of county treasurer fails to provide an adequate bond as required by Section 83.002(a) and to take the

official oath on or before assuming the office, the county judge may declare the office vacant.

(b) Repealed by Acts 2005, 79th Leg., Ch. 876, Sec. 2, eff. September 1, 2005.

(c) A vacancy in the office of county treasurer shall be filled as provided by Section 87.041. The person appointed to fill the vacancy shall, on or before entering upon the discharge of the duties of office, take the official oath and obtain the same surety bond as required by Section 83.002(a) for an elected county treasurer.

(d) A person vacating the office of county treasurer shall deliver to the successor to the office any money, securities, documents, books, and other property in the person's possession that belong to the county as well as any documents and books in the person's possession that are for the use of the county. The person shall perform any other acts as the commissioners court may require.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 876 (S.B. 1107), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 876 (S.B. 1107), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 16, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 49, eff. September 1, 2005.

Sec. 83.005. APPOINTMENT OF PERSON TO ACT IN TREASURER'S PLACE. (a) In a county in which the county treasurer does not have a deputy, the county treasurer may appoint a person, subject to the approval of the commissioners court, to act in the treasurer's place. The appointed person may act in the treasurer's place only if the treasurer is absent, unavoidably detained, incapacitated, or unable to act.

(b) The treasurer shall provide the commissioners court with the details justifying an appointment under this section. The commissioners court may require proof of any detail provided by the treasurer.

(c) The appointed person may act for the treasurer only after:

(1) the commissioners court approves the appointment;

(2) the appointment is recorded in the minutes of the court; and

(3) the appointed person gives a surety bond in favor of the county and the county treasurer, as their interests may appear, in an amount determined by the commissioners court.

(d) If the treasurer appoints a person other than a regularly employed county employee, the appointed person may not receive any compensation from the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 103, Sec. 1, eff. Sept. 1, 1997.

Sec. 83.006. FUNDING OF TREASURER'S OFFICE. The commissioners court may provide funds for adequate personnel and supplies that enable the county treasurer to perform the duties of office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 83.007. STATUTORY REFERENCE: FUNCTION OF TREASURER IN COUNTY THAT HAS ABOLISHED OFFICE. In a county for which the office of county treasurer has been abolished, a reference in this code or other state statute to the county treasurer means the person who performs the powers or duties of the county treasurer in that county.

Added by Acts 2007, 80th Leg., R.S., Ch. 934 (H.B. 3439), Sec. 1, eff. September 1, 2007.

Sec. 83.008. SURETY BOND ON ASSISTANT TREASURERS, DEPUTIES, AND EMPLOYEES; SELF-INSURANCE. (a) If a county treasurer employs only one assistant or deputy, the county treasurer shall execute a surety bond to cover the assistant or deputy and shall execute a schedule surety bond or a blanket surety bond to cover all other employees of the office. If a county treasurer employs more than one assistant or deputy, the county treasurer shall execute a blanket surety bond to cover the assistants or deputies and all other employees of the office.

(b) Instead of a county treasurer obtaining a bond as required

by Subsection (a), the county may self-insure against losses that would have been covered by the bond.

(c) The bond under this section must be conditioned in the same manner and must be for the same amount as the bond for the county treasurer under Section 83.002. The bond must be made payable to the county judge for the use and benefit of the county treasurer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 4, eff. September 1, 2011.

Sec. 83.009. ASSISTANT TREASURER OR TREASURY DEPUTY. (a) The appointment of an assistant treasurer or treasury deputy must be in writing, be signed by the county treasurer, and bear the seal of the county court.

(b) A person appointed as an assistant treasurer or treasury deputy, before beginning to perform the duties of office, must take and subscribe the official oath, which, together with the certificate of the officer administering the oath, must be endorsed on the appointment. The appointment and oath shall be deposited and recorded in the county clerk's office.

(c) An assistant treasurer or treasury deputy acts in the name of the county treasurer as directed by the county treasurer and may perform all official acts that the county treasurer may perform at the discretion of the county treasurer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 4, eff. September 1, 2011.

CHAPTER 84. COUNTY AUDITOR

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 84.001. EFFECT OF REFERENCE TO "DISTRICT JUDGES"; MAJORITY VOTE REQUIRED. (a) In this chapter, a reference to district judges means the district judges having jurisdiction in the county.

(b) A majority vote of the district judges is required to perform an act required or permitted of the district judges unless the law specifically provides otherwise. If only one district judge has jurisdiction in the county, the judge may act alone.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 84.002. APPOINTMENT OF COUNTY AUDITOR. (a) In a county with a population of 10,200 or more, the district judges shall appoint a county auditor.

(b) In a county with a population of less than 10,200:

(1) the district judges may appoint a county auditor if the judges determine that the county's financial circumstances warrant the appointment; and

(2) the district judges shall appoint a county auditor if:

(A) the commissioners court finds that a county auditor is necessary to carry out county business and enters an order in its minutes stating the reason for this finding;

(B) the order is certified to the district judges; and

(C) the district judges find the reason stated by the commissioners court to be good and sufficient.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1167, Sec. 1, eff. Sept. 1, 2001.

Sec. 84.003. PROCEDURE FOR APPOINTMENT. (a) The district judges shall appoint the county auditor at a special meeting held for that purpose. If a majority of the judges cannot agree on the selection of a person as county auditor, one of the judges shall certify that fact to the governor, who shall appoint another district judge to act and vote with the district judges to select the county auditor.

(b) The clerk of the district court shall record the judges' action in the minutes of the court and certify it to the commissioners court. The commissioners court shall record in its minutes the judges' action and an order directing the payment of the auditor's salary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 84.004. TERM. The term of office of a county auditor is two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 84.005. PROCEDURE FOR APPOINTMENT AND TERM IN POPULOUS COUNTY. (a) In a county with a population of 3.3 million or more, the district judges shall hold a meeting for the purpose of appointing a county auditor. For a county auditor to be appointed, a majority of the district judges must be present at the meeting and a candidate for the office must receive at least a two-thirds vote of the district judges who are present and voting at the meeting. Each judge may nominate any number of candidates for the office.

(b) The term of office of the county auditor begins on January 1 of each odd-numbered year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 10(a), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 669, Sec. 48, eff. Sept. 1, 2001.

Sec. 84.006. QUALIFICATIONS. (a) A county auditor must be:

(1) a competent accountant with at least two years' experience in auditing and accounting;

(2) thoroughly competent in public business details; and

(3) a person of unquestionably good moral character and intelligence.

(b) Before making an appointment the district judges shall carefully investigate and consider the person's qualifications.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 11(b), eff. Aug. 28, 1989.

Sec. 84.007. BOND AND OATH. (a) Before taking office and within 20 days after the date of a county auditor's appointment, the county auditor must execute a bond. The bond must be:

(1) a good and sufficient surety bond or a bond secured by two or more good and sufficient personal sureties;

(2) in the amount of $5,000 or more;

(3) payable to the district judges;

(4) conditioned on the faithful performance of the duties of county auditor; and

(5) approved by the district judges.

(b) The county auditor must take the official oath and a written oath that lists the positions of public or private trust previously held and the length of service in each of those positions and that states:

(1) that he has the qualifications required by this chapter; and

(2) that he will not be personally interested in a contract with the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 84.008. JOINT EMPLOYMENT OF COUNTY AUDITOR. (a) Except as provided by Section 84.005, the commissioners courts of two or more counties may agree to jointly employ and compensate a county auditor.

(b) After the commissioners courts have determined that an auditor is necessary in the disposition of county business and after the agreement is made, the commissioners court of each county shall enter in its minutes an order stating its determination of the necessity and shall certify the order to the district judges of the county. If the judges find the orders good and sufficient, they shall appoint the county auditor by an order recorded in the minutes of the district courts of all counties party to the agreement. The district clerk of each county shall certify the order to the commissioners court of that county, who shall record the order in its minutes.

(c) The county auditor is appointed for a term beginning on the day of appointment.

(d) In matters required by this section to be done by the district judges, a majority vote of the judges controls.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 541, Sec. 1, eff. May 31, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 16.001, eff. September 1, 2011.

Sec. 84.0085. CONTINUING EDUCATION. (a) During each full term

of office, a county auditor must successfully complete at least 40 classroom hours of instruction in courses relating to the duties of the county auditor and accredited by the Texas State Board of Public Accountancy as continuing professional education credits for certified public accountants. On the completion of the courses and the accumulation of the continuing professional education credits, the county auditor must certify that fact to the district judges.

(b) For purposes of removal for incompetency under another law, "incompetency" in the case of a county auditor includes the failure to complete the courses in accordance with this section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 11(b), eff. Aug. 28, 1989.

Sec. 84.009. REMOVAL. (a) A county auditor may be removed from office and a successor appointed if, after due investigation by the district judges who appointed the auditor, it is proven that the auditor:

(1) has committed official misconduct; or

(2) is incompetent to faithfully discharge the duties of the office of county auditor.

(b) The district judges who appointed a county auditor under Section 84.002(b)(2) or Section 84.008 may discontinue the services of the auditor after the expiration of one year after the date of the appointment if it is clearly shown that the auditor is not necessary and the auditor's services are not commensurate with the auditor's salary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. ASSISTANTS

Sec. 84.021. ASSISTANTS. (a) From time to time the county auditor may certify to the district judges a list stating the number of assistants to be appointed, the name, duties, qualifications, and experience of each appointee, and the salary to be paid each appointee. The district judges, after careful consideration of the application for the appointment of the assistants and after inquiry concerning the appointees' qualifications, the positions sought to be filled, and the reasonableness of the requested salaries, shall prepare a list of the appointees that the judges approve and the

salary to be paid each. The judges shall certify this list to the commissioners court, which shall order the salaries to be paid on the performance of services and shall appropriate an adequate amount of money for this purpose.

(b) If an emergency exists, the county auditor shall recommend the appointment of temporary assistants, and after a hearing held in accordance with Section 152.905, the district judges shall determine the number, salaries, and duration of employment of the assistants.

(c) An assistant must take the usual oath of office for faithful performance of duty. The county auditor may require an assistant to give a bond and may determine the terms of the bond. The bond must run in favor of the county and the county auditor as their interests indicate. The county shall pay for the bond.

(d) If only one assistant is appointed, the assistant, during the absence or unavoidable detention of the county auditor, may perform the duties required by law of the county auditor. If more than one assistant is appointed, the county auditor may designate the assistant to perform those duties during the absence or unavoidable detention of the county auditor.

(e) The county auditor may discharge an assistant. The district judges approving an appointment have the right annually to withdraw the approval and change the number of assistants permitted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1169, Sec. 3, eff. Aug. 28, 1989.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 84.901. SUPPLIES. A county auditor may purchase, at the county's expense and in the manner provided by law, necessary ledgers, books, records, blank forms, stationery, equipment, telephone service, and postage.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 84.902. AUDITOR TO KEEP CERTAIN HOSPITAL RECORDS IN COUNTY WITH POPULATION OF 190,001 TO 200,000. If, in a county with a population of 190,001 to 200,000, the financial records of a municipal and county hospital located in the county must be kept, the county auditor shall keep the records. If reports concerning that

hospital's financial records must be made to the governing bodies of the municipality and county, the county auditor shall make the reports.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(f), eff. Aug. 28, 1989.

CHAPTER 85. SHERIFF

SUBCHAPTER A. SHERIFF AND SHERIFF'S PERSONNEL

Sec. 85.001. OATH AND BOND. (a) A person elected as sheriff, before beginning to perform the duties of office, must execute a bond with:

(1) two or more good and sufficient sureties; or

(2) a solvent surety company authorized to do business in this state.

(b) The bond must be:

(1) approved by the commissioners court of the county;

(2) made payable to the governor;

(3) in an amount established by the commissioners court, but not less than $5,000 or more than $30,000; and

(4) conditioned that the sheriff will:

(A) faithfully perform the duties of office established by law;

(B) account for and pay to the person authorized by law to receive them the fines, forfeitures, and penalties the sheriff collects for the use of the state or a county;

(C) execute and return when due the process and precepts lawfully directed to the sheriff, and pay to the person to whom they are due or to the person's attorney the funds collected by virtue of the process or precept; and

(D) pay to the county any funds illegally paid, voluntarily or otherwise, to the sheriff from county funds.

(c) The sheriff must take and subscribe the official oath, which, together with the certificate of the officer administering the oath, must be endorsed on the bond.

(d) A person elected or appointed as sheriff who has executed the bond and taken the official oath may enter at once on the duties of office, and that person's acts shall be as valid under law before the receipt of a commission as after the receipt of a commission.

(e) The bond is not void on the first recovery, but may be sued on from time to time in the name of any injured person until the entire amount of the bond is recovered.

(f) A sheriff or deputy sheriff is not liable on an official bond, and is not personally liable, for having received or confined a prisoner delivered or surrendered to the sheriff or deputy by a state ranger.

(g) Repealed by Acts 1997, 75th Leg., ch. 973, Sec. 1, eff. June 18, 1997.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 973, Sec. 1, eff. June 18, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 17, eff. September 1, 2005.

Sec. 85.0011. QUALIFICATIONS FOR SHERIFF OR CANDIDATE FOR SHERIFF. (a) In this section:

(1) "Active duty" means current full-time military service in the armed forces of the United States.

(2) "Armed forces of the United States" means the army, navy, air force, space force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) "Federal special investigator" means a person described by Article 2A.002, Code of Criminal Procedure.

(4) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.

(b) A person is not eligible to serve as sheriff unless the person:

(1) has a high school diploma or a high school equivalency certificate; and

(2) either:

(A) holds an active permanent peace officer license under Chapter 1701, Occupations Code; or

(B) is eligible to be licensed under Sections 1701.309 and 1701.312, Occupations Code, and:

(i) has a minimum of five years of experience as a federal special investigator; or

(ii) is a military veteran with a minimum of 10 years of combined active duty or national guard service experience.

(c) A person is not eligible to be a candidate for the office of sheriff unless the person holds an active permanent peace officer license under Chapter 1701, Occupations Code, or is a person described by Subsection (b)(2)(B)(i) or (ii) and obtains a license within the time provided by Section 1701.302(a), Occupations Code.

Added by Acts 1993, 73rd Leg., ch. 985, Sec. 3. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.819, eff. Sept. 1, 2001.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 201 (S.B. 1124), Sec. 1, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 13.002, eff. September 1, 2025.

Sec. 85.002. NEW BOND REQUIREMENT; REMOVAL. (a) If a surety of the sheriff dies, moves permanently from the state, becomes insolvent, or is released from liability in accordance with law or if the commissioners court considers the sheriff's bond insufficient, the commissioners court shall cite the sheriff to appear at a time named in the citation, after the 10th day but on or before the 30th day after the date of issuance of the citation, and require the sheriff to execute a new bond with good and sufficient security.

(b) If the sheriff neglects or refuses to appear and execute the bond on or before the designated time, that person may not exercise the functions of office and shall be removed from office by the district judge in the manner prescribed by law for the removal of county officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 85.003. DEPUTIES. (a) The appointment of a deputy sheriff must be in writing.

(b) Except as provided by Subsection (b-1), a person appointed as a deputy, before beginning to perform the duties of office, must take and subscribe the official oath, which, together with the certificate of the officer administering the oath, must be endorsed on the appointment. The appointment and oath shall be deposited and

recorded in the county clerk's office. A list of the appointments shall be posted in a conspicuous place in that office.

(b-1) A person reappointed as a deputy may continue to perform the duties of office before retaking the official oath. The deputy must retake the oath as soon as possible after being reappointed.

(c) Except as provided by Subsection (f), a deputy serves at the pleasure of the sheriff. The sheriff may revoke the appointment of a deputy on the indictment of the deputy for a felony.

(d) A sheriff is responsible for the official acts of a deputy and may require that a deputy execute a bond or other security. A sheriff has the same remedies against a deputy and the deputy's sureties as any other person has against the sheriff and the sheriff's sureties.

(e) A deputy may perform the acts and duties of the deputy's principal.

(f) A deputy who is included in the coverage of a civil service system created under Chapter 158 may be suspended or removed only for a violation of a civil service rule adopted under that system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1060 (H.B. 2283), Sec. 1, eff. June 15, 2007.

Acts 2021, 87th Leg., R.S., Ch. 234 (H.B. 1049), Sec. 1, eff. September 1, 2021.

Sec. 85.004. RESERVE DEPUTIES. (a) The commissioners court of a county may authorize the sheriff to appoint reserve deputy sheriffs. The commissioners court may limit the number of reserve deputies that may be appointed.

(b) A reserve deputy serves at the discretion of the sheriff and may be called into service if the sheriff considers it necessary to have additional officers to preserve the peace and enforce the law. The sheriff may authorize a reserve deputy who is a peace officer as described by Article 2A.001, Code of Criminal Procedure, to carry a weapon or act as a peace officer at all times, regardless of whether the reserve deputy is engaged in the actual discharge of official duties, or may limit the authority of the reserve deputy to carry a weapon or act as a peace officer to only those times during

which the reserve deputy is engaged in the actual discharge of official duties. A reserve deputy who is not a peace officer as described by Article 2A.001, Code of Criminal Procedure, may act as a peace officer only during the actual discharge of official duties. A reserve deputy, regardless of whether the reserve deputy is a peace officer as described by Article 2A.001, Code of Criminal Procedure, is not:

(1) eligible for participation in any program provided by the county that is normally considered a financial benefit of full-time employment or for any pension fund created by statute for the benefit of full-time paid peace officers; or

(2) exempt from Chapter 1702, Occupations Code.

(c) Except as provided by Subsection (c-1) or (c-2), a reserve deputy, before beginning to perform the duties of office and at the time of appointment, must file an oath and execute and file a bond in the amount of $2,000 payable to the sheriff. The oath and bond shall be filed with the county clerk.

(c-1) If a sheriff appoints more than one reserve deputy sheriff, the sheriff may execute a blanket surety bond to cover the reserve deputy sheriffs. Instead of a reserve deputy sheriff executing an individual bond under Subsection (c) or the sheriff executing a blanket surety bond, the county may self-insure against losses that would have been covered by the bond.

(c-2) A person reappointed as a reserve deputy may continue to perform the duties of office before retaking the official oath. The reserve deputy must retake the oath as soon as possible after being reappointed.

(d) A reserve deputy on active duty at the call of the sheriff and actively engaged in assigned duties has the same rights, privileges, and duties as any other peace officer of the state.

(e) The sheriff of a county that borders the Gulf of Mexico may organize some of the reserve deputies to serve as marine reserve deputies and lifeguards for beach and water safety purposes and other related functions as the sheriff may determine. A reserve deputy performing functions under this subsection is subject to the laws of this state that relate to reserve deputies except that they may not carry firearms in the performance of their duties.

(f) An organization formed under Subsection (e) may include both paid and unpaid deputies and reserve deputies. The organization may accept contributions and gifts from foundations, individuals,

corporations, and governmental entities, including appropriations by the state on a direct or matching fund basis, to assist the county in providing water safety programs in the interest of the health, safety, and welfare of persons using the coastal water of this state.

(g) The county or sheriff is not liable, because of the appointment of a reserve deputy, if the reserve deputy incurs personal injury while serving in an official capacity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 90, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.820, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 171 (H.B. 2272), Sec. 1, eff. May 28, 2015.

Acts 2021, 87th Leg., R.S., Ch. 234 (H.B. 1049), Sec. 2, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.133, eff. January 1, 2025.

Sec. 85.005. GUARDS; PENALTY. (a) The sheriff may, with the approval of the commissioners court or, in the case of an emergency, with the approval of the county judge, employ a sufficient number of guards to ensure the safekeeping of prisoners and the security of a jail.

(b) In case of an emergency, a guard is subject to being called to duty by the sheriff.

(c) A person charged with the responsibility of enforcing this section commits an offense if the person violates the section. An offense under this section is a misdemeanor punishable by a fine of not less than $50 or more than $200.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 12(a), eff. Aug. 28, 1989.

Sec. 85.006. COUNTY POLICE FORCE IN COUNTIES OF 210,000 OR MORE. (a) In a county with a population of 210,000 or more, the sheriff may appoint a county police force. The commissioners court shall determine the number, which must be at least six, of police officers to be appointed. The sheriff shall appoint one of the

officers as chief of the county police. The appointments are subject to approval by the commissioners court. The sheriff may, subject to approval by the commissioners court, terminate the employment of an officer.

(b) The sheriff shall deputize each police officer appointed under this section. Each officer has the authority of a deputy sheriff, and all laws of the state applicable to deputy sheriffs apply to the officer to the same extent that they apply to deputy sheriffs unless the law conflicts with this section.

(c) A police officer appointed under this section shall patrol, by automobile or motorcycle furnished by the officer, the highways of the county located outside the corporate limits of the county seat. The officer shall devote all time spent on duty to performing that service and to matters related to that service. The officer shall perform all duties in accordance with rules adopted by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. MISCELLANEOUS POWERS AND DUTIES

Sec. 85.021. EXECUTION OF PROCESS; PENALTY. (a) The sheriff shall execute all process and precepts directed to the sheriff by legal authority and shall return the process or precept to the proper court on or before the date the process or precept is returnable.

(b) The sheriff commits an offense if the sheriff:

(1) fails to return a process or precept as required by Subsection (a); or

(2) makes a false return.

(c) An offense under this section is punishable by the court to which the process is returnable, as for contempt, by a fine of not more than $100. A fine collected under this section shall be deposited in the county treasury.

(d) The sheriff is liable for all damages sustained by a person by reason of an offense committed by the sheriff under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 85.022. EXECUTION OF LEGISLATIVE PROCESS; PENALTY. (a) The sheriff shall execute subpoenas and other process directed to the

sheriff that are issued by the speaker of the house of representatives, the president of the senate, or the chairman of a committee of either house of the legislature.

(b) Failure to execute the subpoena or other process under Subsection (a) carries the same penalties as failure to execute process issued by a court.

(c) If the sheriff performs services under this section, the sheriff shall receive the fees prescribed by law for similar services rendered in the courts. The fee shall be paid on the certificate of the authority issuing the process.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 85.023. UNFINISHED BUSINESS. If a sheriff vacates the office for any reason, all unfinished business shall be transferred to the succeeding sheriff and completed in the same manner as if the successor had begun the business.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 85.024. SCHOOL SAFETY MEETINGS.

Text of subsection as amended by Acts 2025, 89th Leg., R.S., Ch. 361 (H.B. 33), Sec. 14

(a) The sheriff of a county in which a public school is located shall call and conduct an annual meeting to discuss:

(1) school safety;

(2) coordinated law enforcement response to school violence incidents;

(3) law enforcement agency capabilities;

(4) available resources;

(5) emergency radio interoperability;

(6) chain of command planning;

(7) each public school's multihazard emergency operations plan, including a discussion and analysis of how the school's multihazard emergency operations plan would be implemented in an emergency situation; and

(8) other related subjects proposed by a person in

attendance at the meeting.

Text of subsection as amended by Acts 2025, 89th Leg., R.S., Ch. 1070 (H.B. 121), Sec. 13

(a) The sheriff of a county with a total population of less than 350,000 in which a school district or open-enrollment charter school is located shall call and conduct a meeting at least twice each calendar year, not less than three months apart, to discuss:

(1) school safety;

(2) coordinated law enforcement response to school violence incidents;

(3) law enforcement agency capabilities;

(4) available resources;

(5) emergency radio interoperability;

(6) chain of command planning; and

(7) other related subjects proposed by a person in attendance at the meeting.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2025, 89th Leg., R.S., Ch. 361 (H.B. 33), Sec. 20, eff. September 1, 2025.

(b) The sheriff of a county to which this section applies in which more than one school district or open-enrollment charter school is located may discuss school safety policies for more than one school district or open-enrollment charter school in a meeting described by Subsection (a). This subsection does not require districts or schools located within the same county to adopt the same school safety policies.

(c) In a county with a population of less than 350,000, the following persons shall attend a meeting called under Subsection (a):

(1) the sheriff or the sheriff's designee;

(2) the police chief of a municipal police department in the county or the police chief's designee;

(3) each elected constable in the county or the constable's designees;

(4) each police chief of a school district's police department or school district security coordinator from each school district located in the county;

(5) a representative of the Department of Public Safety assigned to the county;

(6) a representative of each other state agency with

commissioned peace officers assigned to the county;

(7) a person appointed to a command staff position at an emergency medical service in the county;

(8) a person appointed to a command staff position at a municipal emergency medical service in the county;

(9) a person appointed to a command staff position at a fire department in the county;

(10) the superintendent or the superintendent's designee of each school district located in the county;

(11) the person who serves the function of superintendent, or that person's designee, in each open-enrollment charter school located in the county;

(12) a representative of the Texas Division of Emergency Management; and

(13) any other person the sheriff considers appropriate.

(c-1) In a county with a population of 350,000 or more, the following persons shall attend a meeting called under Subsection (a):

(1) for each school district located in the county, either:

(A) the police chief of the district's police department, or the chief's designee; or

(B) if the district contracts with another political subdivision for law enforcement services, the chief administrative officer of the law enforcement agency providing law enforcement services to the district, or the officer's designee;

(2) the superintendent of each school district located in the county; and

(3) any other person the sheriff considers appropriate.

(d) The sheriff shall invite any federal law enforcement official serving in the county to attend the meeting.

(e) As soon as practicable after a meeting under Subsection (a), the sheriff shall submit a report to the Texas School Safety Center identifying the attendees of the meeting and the subjects discussed. The Texas School Safety Center shall maintain the report and make it publicly available on the center's Internet website. The center may not make publicly available and shall redact any parts of a report that the center determines may expose a safety vulnerability of a school district facility.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 25, eff. September 1, 2023.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 361 (H.B. 33), Sec. 14, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 361 (H.B. 33), Sec. 20, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 1070 (H.B. 121), Sec. 13, eff. September 1, 2025.

Sec. 85.025. AUTHORITY TO ENTER INTO CONTRACT TO PROVIDE LAW ENFORCEMENT SERVICES IN CERTAIN COUNTIES. (a) In this section:

(1) "Local government" means a county, municipality, municipal utility district, school district, junior college district, or other political subdivision of this state.

(2) "Property owners' association" has the meaning assigned by Section 202.001, Property Code.

(b) This section applies only to a county with a population of more than 3.3 million.

(c) A sheriff may enter into a contract with a local government, a property owners' association, or an owner of land to provide law enforcement services in the sheriff's county:

(1) in and near the area managed or regulated by the local government or the association or the area owned by the owner; and

(2) to the persons residing in or visiting an area described by Subdivision (1).

(d) The commissioners court of the sheriff's county may not prohibit or otherwise restrict the sheriff from entering into a contract under this section. The sheriff may enter into the contract and determine the terms of the contract, regardless of whether the commissioners court approves of the contract or the terms.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 12 (H.B. 26), Sec. 1, eff. December 4, 2025.

CHAPTER 86. CONSTABLE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 86.001. ELIGIBILITY TO SERVE AFTER BOUNDARY CHANGE. A person who has served as the constable of a precinct for 10 or more consecutive years before a change is made in the boundaries of the

precinct is not ineligible for reelection in the precinct because of residence outside the precinct if the constable's residence is within the boundaries of the precinct as they existed before the change.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 86.002. OATH; BOND. (a) Before entering on the duties of office, a person who is elected to the office of constable must execute a bond with two or more good and sufficient sureties or with a solvent surety company authorized to do business in this state. The bond must be payable to the governor and the governor's successors in office and conditioned that the constable will faithfully perform the duties imposed by law. The bond must be approved by the commissioners court of the county. The commissioners court shall set the bond in an amount of not less than $500 or more than $1,500.

(b) A person who is elected constable must also take and sign the constitutional oath of office. The oath shall be endorsed on the bond, together with the certificate of the officer who administers the oath. The bond and oath must be deposited and recorded in the office of the clerk of the county court.

(c) The bond is not void on the first recovery but may be sued on from time to time in the name of an injured party until the whole amount of the bond is recovered.

(d) A person who is elected or appointed to the office of constable and who has given the necessary bond and taken the oath of office may immediately perform the duties of the office. The acts of the constable are as valid in law as if the constable were commissioned.

(e) Repealed by Acts 1995, 74th Leg., ch. 683, Sec. 1, eff. Aug. 28, 1995.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 683, Sec. 1, eff. Aug. 28, 1995. Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 18, eff. September 1, 2005.

Sec. 86.0021. QUALIFICATIONS; REMOVAL. (a) A person is not

eligible to serve as constable unless:

(1) the person is eligible to be licensed under Sections 1701.309 and 1701.312, Occupations Code, and:

(A) has at least an associate's degree conferred by an institution of higher education accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board;

(B) is a special investigator under Article 2A.002(a), Code of Criminal Procedure; or

(C) is an honorably retired peace officer or honorably retired federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code; or

(2) the person is an active or inactive licensed peace officer under Chapter 1701, Occupations Code.

(b) On or before the 270th day after the date a constable takes office, the constable shall provide, to the commissioners court of the county in which the constable serves, evidence that the constable has been issued a permanent peace officer license under Chapter 1701, Occupations Code. A constable who fails to provide evidence of licensure under this subsection or who fails to maintain a permanent license while serving in office forfeits the office and is subject to removal in a quo warranto proceeding under Chapter 66, Civil Practice and Remedies Code.

(c) The license requirement of Subsection (b) supersedes the license requirement of Section 1701.302, Occupations Code.

Added by Acts 1997, 75th Leg., ch. 884, Sec. 3, eff. Jan. 1, 1998. Amended by Acts 1999, 76th Leg., ch. 877, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.821, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 954 (H.B. 1588), Sec. 1, eff. June 18, 2005.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.134, eff. January 1, 2025.

Sec. 86.003. NEW BOND; REMOVAL. (a) If any of the sureties of a constable dies, permanently moves from this state, becomes insolvent, or is released from liability as provided by law or if the commissioners court determines that the bond of the constable is

insufficient, the court shall issue a citation that requires the constable to appear at a time set in the citation, after the 10th day but on or before the 30th day after the date the citation is issued, in order to execute a new bond with good and sufficient surety.

(b) If the constable neglects or refuses to appear to execute the bond at the designated time, the constable shall cease to perform the duties of the office and shall be removed from office by the judge of the district court in the manner provided by law for the removal of county officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. DEPUTIES

Sec. 86.011. APPOINTMENT OF DEPUTY CONSTABLE. (a) An elected constable who desires to appoint a deputy must apply in writing to the commissioners court of the county and show that it is necessary to appoint a deputy in order to properly handle the business of the constable's office that originates in the constable's precinct. The application must state the name of the proposed deputy. The commissioners court shall approve and confirm the appointment of the deputy only if the commissioners court determines that the constable needs a deputy to handle the business originating in the precinct.

(b) Each deputy constable must qualify in the manner provided for deputy sheriffs under Section 85.003.

(c) The constable is responsible for the official acts of each deputy of the constable. The constable may require a deputy to post a bond or security. A constable may exercise any remedy against a deputy or the deputy's surety that a person may exercise against the constable or the constable's surety.

(d) A person commits an offense if the person:

(1) serves as a deputy constable and the person has not been appointed as provided by Subsection (a); or

(2) is a constable and issues a deputyship without the consent and approval of the commissioners court.

(e) An offense under Subsection (d) is punishable by a fine of not less than $50 or more than $1,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 234 (H.B. 1049), Sec. 3, eff.

September 1, 2021.

Sec. 86.012. RESERVE DEPUTY CONSTABLES. (a) The commissioners court of a county may authorize a constable of the county to appoint reserve deputy constables. The commissioners court may limit the number of reserve deputy constables that a constable may appoint.

(b) A reserve deputy constable serves at the discretion of the constable and may be called into service at any time that the constable considers it necessary to have additional officers to preserve the peace and enforce the law. The constable may authorize a reserve deputy constable who is a peace officer as described by Article 2A.001, Code of Criminal Procedure, to carry a weapon or act as a peace officer at all times, regardless of whether the reserve deputy constable is engaged in the actual discharge of official duties, or may limit the authority of the reserve deputy constable to carry a weapon or act as a peace officer to only those times during which the reserve deputy constable is engaged in the actual discharge of official duties. A reserve deputy constable who is not a peace officer as described by Article 2A.001, Code of Criminal Procedure, may act as a peace officer only during the actual discharge of official duties. A reserve deputy constable, regardless of whether the reserve deputy constable is a peace officer as described by Article 2A.001, Code of Criminal Procedure, is not:

(1) eligible for participation in any program provided by the county that is normally considered a financial benefit of full-time employment or for any pension fund created by statute for the benefit of full-time paid peace officers; or

(2) exempt from Chapter 1702, Occupations Code.

(c) Except as provided by Subsection (c-1), a reserve deputy constable must take the official oath and must execute a bond in the amount of $2,000, payable to the constable. The oath and bond must be filed with the county clerk of the county in which the appointment is made. Except as provided by Subsection (c-2), the oath and bond must be given before the reserve deputy constable's entry on duty and simultaneously with the officer's appointment.

(c-1) If a constable appoints more than one reserve deputy constable, the constable may execute a blanket surety bond to cover the reserve deputy constables. Instead of a reserve deputy constable executing an individual bond under Subsection (c) or the constable

executing a blanket surety bond, the county may self-insure against losses that would have been covered by the bond.

(c-2) A person reappointed as a reserve deputy constable may continue to perform the duties of office before retaking the official oath. The reserve deputy constable must retake the oath as soon as possible after being reappointed.

(d) While actively engaged in an assigned duty at the call of the constable, a reserve deputy constable is vested with the same rights, privileges, and duties of any other peace officer in this state.

(e) The county and the constable do not incur any liability by reason of the appointment of a reserve deputy constable if the reserve deputy constable incurs a personal injury while serving in that capacity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 90, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.822, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 261 (H.B. 1241), Sec. 1, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 234 (H.B. 1049), Sec. 4, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.135, eff. January 1, 2025.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 86.021. GENERAL POWERS AND DUTIES. (a) A constable shall execute and return as provided by law each process, warrant, and precept that is directed to the constable and is delivered by a lawful officer. Notices required by Section 24.005, Property Code, relating to eviction actions are process for purposes of this section that may be executed by a constable.

(b) A constable may execute any civil or criminal process throughout the county in which the constable's precinct is located and in other locations as provided by the Code of Criminal Procedure or by any other law.

(c) A constable expressly authorized by statute to perform an act or service, including the service of civil or criminal process,

citation, notice, warrant, subpoena, or writ, may perform the act or service anywhere in the county in which the constable's precinct is located.

(d) Regardless of the Texas Rules of Civil Procedure, all civil process may be served by a constable in the constable's county or in a county contiguous to the constable's county, except that a constable who is a party to or interested in the outcome of a suit may not serve any process related to the suit. All civil process served by a constable at any time or place is presumed to be served in the constable's official capacity if under the law the constable may serve that process in the constable's official capacity. A constable may not under any circumstances retain a fee paid for serving civil process in the constable's official capacity other than the constable's regular salary or compensation. Any fee paid to a constable for serving civil process in the constable's official capacity shall be deposited with the county treasurer of the constable's county.

(e) The constable shall attend each justice court held in the precinct.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 13(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 884, Sec. 1, eff. Jan. 1, 1998.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 846 (S.B. 2197), Sec. 1, eff. September 1, 2009.

Sec. 86.023. COLLECTION LIABILITY. If, for collection, a constable receives a bond, bill, note, or account from any person and the constable gives a receipt in an official capacity for the instrument or account, the constable and the constable's sureties are liable under the constable's bond for the amount collected if the constable fails to pay the amount on demand to the person for whom the constable made the collection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 86.024. FAILURE TO EXECUTE PROCESS. (a) If a constable fails or refuses to execute and return according to law a process,

warrant, or precept that is lawfully directed and delivered to the constable, the constable shall be fined for contempt before the court that issued the process, warrant, or precept on the motion of the person injured by the failure or refusal. This section does not apply to actions brought under or that could have been brought under Chapter 34, Civil Practice and Remedies Code.

(b) The fine shall be set at not less than $10 or more than $100, with costs. The fine shall be for the benefit of the injured person. The constable must be given 10 days' notice of the motion.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 421 (S.B. 1269), Sec. 6, eff. September 1, 2007.

Sec. 86.025. UNFINISHED BUSINESS. If a constable vacates the office for any reason, all unfinished business shall be transferred to the succeeding constable and completed in the same manner as if the successor had begun the business.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 86.026. AUTHORITY TO ENTER INTO CONTRACT TO PROVIDE LAW ENFORCEMENT SERVICES IN CERTAIN COUNTIES. (a) In this section:

(1) "Local government" means a county, municipality, municipal utility district, school district, junior college district, or other political subdivision of this state.

(2) "Property owners' association" has the meaning assigned by Section 202.001, Property Code.

(b) This section applies only to a county with a population of more than 3.3 million.

(c) A constable may enter into a contract with a local government, a property owners' association, or an owner of land to provide law enforcement services in the constable's precinct:

(1) in and near the area managed or regulated by the local government or the association or the area owned by the owner; and

(2) to the persons residing in or visiting an area described by Subdivision (1).

(d) The commissioners court of a constable's county may not

prohibit or otherwise restrict the constable from entering into a contract under this section. The constable may enter into the contract and determine the terms of the contract, regardless of whether the commissioners court approves of the contract or the terms.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 12 (H.B. 26), Sec. 2, eff. December 4, 2025.

CHAPTER 87. REMOVAL OF COUNTY OFFICERS FROM OFFICE; FILLING OF VACANCIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 87.001. NO REMOVAL FOR PRIOR ACTION. An officer may not be removed under this chapter for an act the officer committed before election to office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. REMOVAL BY PETITION AND TRIAL

Sec. 87.011. DEFINITIONS. In this subchapter:

(1) "District attorney" includes a criminal district attorney.

(2) "Incompetency" means:

(A) gross ignorance of official duties;

(B) gross carelessness in the discharge of those duties; or

(C) unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer's election.

(3) "Official misconduct" means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes:

(A) an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law;

(B) a prosecuting attorney's adoption or enforcement of a policy of refusing to prosecute a class or type of criminal offense under state law or instructing law enforcement to refuse to arrest

individuals suspected of committing a class or type of offense under state law, except a policy adopted:

(i) in compliance with state law or an injunction, judgment, or other court order;

(ii) in response to a reasonable evidentiary impediment to prosecution; or

(iii) to provide for diversion or similar conditional dismissals of cases when permissible under state law; or

(C) permitting an attorney who is employed by or otherwise under the direction or control of the prosecuting attorney to refuse to prosecute a class or type of criminal offense under state law or instruct law enforcement to refuse to arrest individuals suspected of committing a class or type of offense under state law for any reason other than a reason described by Paragraph (B)(i), (ii), or (iii).

(4) "Policy" means an instruction or directive expressed in any manner.

(5) "Prosecuting attorney" means a district attorney or a county attorney with criminal jurisdiction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 366 (H.B. 17), Sec. 1, eff. September 1, 2023.

Sec. 87.012. OFFICERS SUBJECT TO REMOVAL. The district judge may, under this subchapter, remove from office:

(1) a district attorney;
(2) a county attorney;
(3) a county judge;
(4) a county commissioner;
(5) a county clerk;
(6) a district clerk;
(7) a district and county clerk;
(8) a county treasurer;
(9) a sheriff;
(10) a county surveyor;
(11) a county tax assessor-collector;
(12) a constable;

(13) a justice of the peace;

(14) a member of the board of trustees of an independent school district; and

(15) a county officer, not otherwise named by this section, whose office is created under the constitution or other law of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 37 (H.B. 328), Sec. 4, eff. May 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 508 (S.B. 122), Sec. 1, eff. June 14, 2013.

Sec. 87.013. GENERAL GROUNDS FOR REMOVAL. (a) An officer may be removed for:

(1) incompetency;

(2) official misconduct; or

(3) intoxication on or off duty caused by drinking an alcoholic beverage.

(b) Intoxication is not a ground for removal if it appears at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 87.0131. DEFENSE IN CERTAIN CASES. It is a defense in an action alleging a prosecuting attorney committed official misconduct described by Section 87.011(3)(C) that the prosecuting attorney took action immediately on discovering an attorney employed by or otherwise under the direction or control of the prosecuting attorney was acting as described by Section 87.011(3)(C).

Added by Acts 2023, 88th Leg., R.S., Ch. 366 (H.B. 17), Sec. 2, eff. September 1, 2023.

Sec. 87.014. GROUNDS: FAILURE TO GIVE BOND. A county officer

who is required by law to give an official bond may be removed under this subchapter if the officer:

(1) fails to execute the bond within the time prescribed by law; or

(2) does not give a new bond, or an additional bond or security, if required by law to do so.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 87.015. PETITION FOR REMOVAL. (a) A proceeding for the removal of an officer is begun by filing a written petition for removal in a district court of the county in which the officer resides. However, a proceeding for the removal of a district attorney is begun by filing a written petition in a district court of:

(1) the county in which the attorney resides; or

(2) the county where the alleged cause of removal occurred, if that county is in the attorney's judicial district.

(b) A petition for removal of an officer other than a prosecuting attorney may be filed by any resident of this state who has lived for at least six months in the county in which the petition is to be filed and who is not currently under indictment in the county. At least one of the parties who files the petition must swear to it at or before the filing.

(b-1) A petition for removal of a prosecuting attorney may be filed by any resident of this state who, at the time of the alleged cause of removal, lives and has lived for at least six months in the county in which the alleged cause of removal occurred and who is not currently charged with a criminal offense in that county. At least one of the parties who files the petition must swear to it at or before the filing.

(c) A petition for removal of an officer under this subchapter must be addressed to the presiding judge of the administrative judicial region in which the petition is filed. The petition must set forth the grounds alleged for the removal of the officer in plain and intelligible language and must cite the time and place of the occurrence of each act alleged as a ground for removal with as much certainty as the nature of the case permits.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 366 (H.B. 17), Sec. 3, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 601 (H.B. 2715), Sec. 1, eff. June 20, 2025.

Sec. 87.0151. ASSIGNMENT OF JUDGE. (a) Immediately after a petition for removal of an officer under this subchapter is filed under Section 87.015, the district clerk shall deliver a copy of the petition to the presiding judge of the administrative judicial region in which the court sits.

(b) On receiving a petition for removal under Subsection (a), the presiding judge of the administrative judicial region shall assign a district court judge of a judicial district that does not include the county in which the petition was filed to conduct the removal proceedings.

Added by Acts 2023, 88th Leg., R.S., Ch. 366 (H.B. 17), Sec. 4, eff. September 1, 2023.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 601 (H.B. 2715), Sec. 2, eff. June 20, 2025.

Sec. 87.016. CITATION OF OFFICER. (a) After a petition for removal is filed, the person filing the petition shall apply to the district judge in writing for an order requiring a citation and a certified copy of the petition to be served on the officer.

(b) If the application for the order is made during the term of the court, action may not be taken on the petition until the order is granted and entered in the minutes of the court. If the application is made to the judge during the vacation of the court, the judge shall indicate on the petition the action taken and shall have the action entered in the minutes of the court at the next term.

(c) If the judge refuses to issue the order for citation, the petition shall be dismissed at the cost of the person filing the petition. The person may not take an appeal or writ of error from the judge's decision. If the judge grants the order for citation, the clerk shall issue the citation with a certified copy of the

petition. The judge shall require the person filing the petition to post security for costs in the manner provided for other cases.

(d) The citation shall order the officer to appear and answer the petition on a date, fixed by the judge, after the fifth day after the date the citation is served. The time is computed as it is in other suits.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 563, Sec. 1, eff. Sept. 1, 1991.

Sec. 87.017. SUSPENSION PENDING TRIAL; TEMPORARY APPOINTEE. (a) After the issuance of the order requiring citation of the officer, the district judge may temporarily suspend the officer and may appoint another person to perform the duties of the office.

(b) The judge may not suspend the officer until the person appointed to serve executes a bond, with at least two good and sufficient sureties, in an amount fixed by the judge and conditioned as required by the judge. The bond shall be used to pay damages and costs to the suspended officer if the grounds for removal are found at trial to be insufficient or untrue. In an action to recover on the bond it is necessary to allege and prove that the temporary appointee actively aided and instigated the filing and prosecution of the removal action. The suspended officer must also serve written notice on the temporary appointee and the appointee's bondsman, within 90 days after the date the bond is executed, stating that the officer intends to hold them liable on the bond and stating the grounds for that liability.

(c) If the final judgment establishes the officer's right to the office, the county shall pay the officer from the general fund of the county an amount equal to the compensation received by the temporary appointee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 87.018. TRIAL. (a) Officers may be removed only following a trial by jury.

(b) The trial for removal of an officer and the proceedings connected with the trial shall be conducted as much as possible in accordance with the rules and practice of the court in other civil

cases, in the name of the State of Texas, and on the relation of the person filing the petition.

(c) In a removal case, the judge may not submit special issues to the jury. Under a proper charge applicable to the facts of the case, the judge shall instruct the jury to find from the evidence whether the grounds for removal alleged in the petition are true. If the petition alleges more than one ground for removal, the jury shall indicate in the verdict which grounds are sustained by the evidence and which are not sustained.

(d) Repealed by Acts 2025, 89th Leg., R.S., Ch. 601 (H.B. 2715), Sec. 4, eff. June 20, 2025.

(e) Repealed by Acts 2025, 89th Leg., R.S., Ch. 601 (H.B. 2715), Sec. 4, eff. June 20, 2025.

(f) In a proceeding to remove an officer under this subchapter, the presiding judge of the administrative judicial region in which the petition for removal was filed shall appoint a prosecuting attorney from another judicial district or county, as applicable, in the administrative judicial region to represent the state.

(g) In a proceeding to remove a prosecuting attorney from office, a prosecuting attorney's public statement establishing that the prosecuting attorney adopted or enforced or intends to adopt or enforce a policy described by Section 87.011(3)(B) or permitted or intends to permit an attorney who is employed by or otherwise under the direction or control of the prosecuting attorney to act as described by Section 87.011(3)(C) creates a rebuttable presumption that the prosecuting attorney committed official misconduct.

(h) In a trial in which a prosecuting attorney is accused of committing official misconduct under Section 87.011(3)(B) or (C), a court may award reasonable attorney's fees and costs the prosecuting attorney personally spent related to the conduct of the proceeding on finding that the prosecuting attorney did not adopt or enforce a policy described by Section 87.011(3)(B) or permit an attorney who is employed by or otherwise under the direction or control of the prosecuting attorney to act as described by Section 87.011(3)(C), as applicable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 563, Sec. 2, eff. Sept. 1, 1991. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 366 (H.B. 17), Sec. 5, eff.

September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 601 (H.B. 2715), Sec. 3, eff. June 20, 2025.

Acts 2025, 89th Leg., R.S., Ch. 601 (H.B. 2715), Sec. 4, eff. June 20, 2025.

Sec. 87.019. APPEAL. (a) Either party to a removal action may appeal the final judgment to the court of appeals in the manner provided for other civil cases. If the officer has not been suspended from office, the officer is not required to post an appeal bond but may be required to post a bond for costs.

(b) An appeal of a removal action takes precedence over the ordinary business of the court of appeals and shall be decided with all convenient dispatch. If the trial court judgment is not set aside or suspended, the court of appeals shall issue its mandate in the case within five days after the date the court renders its judgment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. REMOVAL BY CRIMINAL CONVICTION

Sec. 87.031. IMMEDIATE REMOVAL. (a) The conviction of a county officer by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office of that officer.

(b) The court rendering judgment in such a case shall include an order removing the officer in the judgment.

(c) For purposes of Subsection (a), "a misdemeanor involving official misconduct" includes a misdemeanor under Section 39.07, Penal Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 5.01, eff. September 1, 2017.

Sec. 87.032. APPEAL; SUSPENSION. If the officer appeals the judgment, other than for an offense to which Section 180.010 applies,

the appeal supersedes the order of removal unless the court that renders the judgment finds that it is in the public interest to suspend the officer pending the appeal. If the court finds that the public interest requires suspension, the court shall suspend the officer as provided by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.001, eff. September 1, 2009.
Acts 2023, 88th Leg., R.S., Ch. 1048 (S.B. 232), Sec. 3, eff. September 1, 2023.

SUBCHAPTER D. FILLING OF VACANCIES

Sec. 87.041. VACANCIES FILLED BY APPOINTMENT OF COMMISSIONERS COURT. (a) The commissioners court of a county may fill a vacancy in the office of:

(1) county judge;
(2) county clerk;
(3) district and county clerk;
(4) sheriff;
(5) county attorney;
(6) county treasurer;
(7) county surveyor;
(8) county tax assessor-collector;
(9) justice of the peace; or
(10) constable.

(b) The commissioners court shall fill a vacancy by a majority vote of the members of the court who are present and voting.

(c) The person appointed by the commissioners court to fill the vacancy shall hold office until the next general election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 37 (H.B. 328), Sec. 5, eff. May 19, 2009.

Sec. 87.042. COUNTY COMMISSIONER VACANCY. (a) Except as provided by Subsection (b), if a vacancy occurs in the office of

county commissioner, the county judge shall appoint a suitable resident of the precinct in which the vacancy exists to fill the vacancy until the next general election.

(b) This subsection applies only to a county with a population of more than 300,000. Not later than the 60th day after the date a vacancy occurs in the office of county commissioner, the county judge shall appoint a suitable resident of the precinct in which the vacancy exists to fill the vacancy until the next general election. If the county judge does not make an appointment to fill the vacancy before the 61st day after the date the vacancy occurred, the commissioners court by majority vote shall appoint a suitable resident of the precinct in which the vacancy exists to fill the vacancy until the next general election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 791 (H.B. 1927), Sec. 1, eff. June 10, 2019.

Sec. 87.043. TEMPORARY ABSENCE IN OFFICE OF COUNTY JUDGE IN CERTAIN COUNTIES. (a) In a county with a population of less than 150,000, a temporary absence occurs in the office of county judge if:

(1) the county judge is located outside the county for 30 consecutive full days as a direct result of:

(A) being a reservist or a member of the national guard who was ordered to duty under the authority of federal law;

(B) enlisting in the armed forces or the national guard as a volunteer; or

(C) being inducted into the armed forces under federal draft laws; and

(2) the commissioners court determines in writing that the absence prevents the county judge from satisfactorily discharging the duties of the office.

(b) If a temporary absence exists in the office of county judge, before the 30th day after the date the absence begins, the absent county judge may appoint a resident of the county to fill the office until the next term of that office or until the temporary absence ends, whichever event occurs first. If the absent county judge does not appoint a resident of the county within the 30-day

period, the commissioners court shall appoint a resident of the county to fill the office until the next term of that office or until the temporary absence ends, whichever event occurs first.

Added by Acts 1991, 72nd Leg., ch. 447, Sec. 1, eff. June 11, 1991.

CHAPTER 88. OFFICIAL BONDS OF COUNTY OFFICERS AND EMPLOYEES

Sec. 88.001. CERTAIN BONDS PAYABLE TO COUNTY JUDGE; CUSTODY OF BONDS. The official bond of a county officer that is required by law to be approved by the commissioners court must, except as required by other law, be made payable to the county judge and kept and recorded by the county clerk.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 23, eff. Sept. 1, 1993.

Sec. 88.002. APPLICATION OF SURETY TO TERMINATE LIABILITY ON BOND. A surety on the official bond of a county officer may apply to the commissioners court to be relieved from the bond.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 23, eff. Sept. 1, 1993.

Sec. 88.003. NOTICE TO OFFICER OF SURETY'S APPLICATION. (a) The county clerk shall issue to the officer giving the bond a notice and a copy of a surety's application to be relieved from a bond.

(b) The sheriff or a constable of the county shall serve the notice and a copy of the application under this section on the officer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 23, eff. Sept. 1, 1993.

Sec. 88.004. OFFICER TO STOP EXERCISING FUNCTIONS OF OFFICE. On service of notice under Section 88.003, an officer shall stop exercising the functions of the officer's office, except that:

(1) the officer shall preserve records and property in the officer's charge; and

(2) if the officer is a sheriff or constable, the officer shall:

(A) keep prisoners;
(B) preserve the peace; and
(C) execute warrants of arrest.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 23, eff. Sept. 1, 1993.

Sec. 88.005. OFFICER WHO FAILS TO GIVE NEW BOND VACATES OFFICE. An officer who does not give a new bond before the 21st day after the date the officer receives notice under Section 88.003 vacates the officer's office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 23, eff. Sept. 1, 1993.

Sec. 88.006. NEW BOND; DISCHARGE OF FORMER SURETIES. If an officer served notice under Section 88.003 gives a new bond and the bond is approved, the former sureties are discharged from liability for misconduct of the officer after the approval of the new bond.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 23, eff. Sept. 1, 1993.

Sec. 88.007. NEW BOND REQUIRED BY COMMISSIONERS COURT. (a) A commissioners court that finds that a county officer's bond approved by the court is insufficient for any reason shall:

(1) require the officer to give a new bond or additional security; and

(2) have the officer cited to appear at a term of the court not earlier than the sixth day after the date of service and take any action the court considers best for the public interest.

(b) Action taken by the commissioners court under this section is final and may not be appealed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 23, eff. Sept. 1, 1993.

Sec. 88.008. SELF-INSURANCE INSTEAD OF BOND. (a) Notwithstanding any other law requiring a county officer or employee to execute a bond as a condition of office or employment, a county officer or employee is not required to execute the bond and may

perform the duties of office or employment if:

(1) the commissioners court by order authorizes the county to self-insure against losses that would have been covered by the bond; and

(2) the county judge approves the order adopted under Subdivision (1), if the county judge was required to approve the bond under the other law.

(b) An order adopted by the commissioners court under Subsection (a) shall be kept and recorded by the county clerk.

Added by Acts 2013, 83rd Leg., R.S., Ch. 69 (S.B. 265), Sec. 3, eff. May 18, 2013.

CHAPTER 89. GENERAL PROVISIONS RELATING TO COUNTY ADMINISTRATION

Sec. 89.001. SPECIAL COUNSEL IN POPULOUS COUNTIES. (a) The commissioners court of a county with a population of more than two million may employ an attorney as special counsel.

(b) The special counsel may be employed to:

(1) represent the county in any suit brought by or against the county;

(2) prepare necessary documents and otherwise assist the court, the county engineer, and other county employees in the acquisition of rights-of-way for the county and for state highways; or

(3) represent the county in condemnation proceedings for the acquisition of rights-of-way for highways and other purposes for which the county has the right of eminent domain.

(c) The county attorney shall select the special counsel. If the county does not have a county attorney, the district attorney or criminal district attorney shall select the special counsel. The selecting officer shall determine the terms and duration of employment of the special counsel, subject to the court's approval.

Acts 1987, 70th Leg.,ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 85, eff. Sept. 1, 1991. Renumbered from Sec. 81.023 by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(b), eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 19, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 20, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 127, eff. September 1, 2023.

Sec. 89.002. STATE ASSOCIATION OF COUNTIES. (a) The commissioners court may spend, in the name of the county, money from the county's general fund for membership fees and dues of a nonprofit state association of counties if:

(1) a majority of the court votes to approve membership in the association;

(2) the association exists for the betterment of county government and the benefit of all county officials;

(3) the association is not affiliated with a labor organization;

(4) neither the association nor an employee of the association directly or indirectly influences or attempts to influence the outcome of any legislation pending before the legislature, except that this subdivision does not prevent a person from providing information for a member of the legislature or appearing before a legislative committee at the request of the committee or the member of the legislature; and

(5) neither the association nor an employee of the association directly or indirectly contributes any money, services, or other valuable thing to a political campaign or endorses a candidate or group of candidates for public office.

(b) If any association or organization supported wholly or partly by payments of tax receipts from political subdivisions engages in an activity described by Subsection (a)(4) or (5), a taxpayer of a political subdivision that pays fees or dues to the association or organization is entitled to appropriate injunctive relief to prevent any further activity described by Subsection (a)(4) or (5) or any further payments of fees or dues.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 81.026 by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(b), eff. Sept. 1, 1999.

Sec. 89.003. CENTRAL MAILING SYSTEM IN COUNTIES WITH POPULATION OF MORE THAN ONE MILLION. The commissioners court of a county with a population of more than one million may establish a central mailing system to serve:

(1) district and county courts in the county, including the office of the clerk of the court;

(2) offices in the county of the judicial district in which the county is located; and

(3) offices and departments of the county.

Added by Acts 1995, 74th Leg., ch. 146, Sec. 1, eff. May 19, 1995. Renumbered from Local Government Code Sec. 81.029 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(65), eff. Sept. 1, 1997. Renumbered from Sec. 81.030 by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(b), eff. Sept. 1, 1999.

Sec. 89.004. PRESENTATION OF CLAIM. (a) Except as provided by Subsection (c), a person may not file suit on a claim against a county or an elected or appointed county official in the official's capacity as an appointed or elected official unless the person has presented the claim to the commissioners court and the commissioners court neglects or refuses to pay all or part of the claim before the 60th day after the date of the presentation of the claim.

(b) If the plaintiff in a suit against a county does not recover more than the commissioners court offered to pay on presentation of the claim, the plaintiff shall pay the costs of the suit.

(c) A person may file a suit for injunctive relief against a county. After the court's ruling on the application for temporary injunctive relief, any portion of the suit that seeks monetary damages shall be abated until the claim is presented to the commissioners court and the commissioners court neglects or refuses to pay all or part of the claim by the 60th day after the date of the presentation of the claim.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 81.041 by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(b), eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1203, Sec. 1, eff. Sept. 1, 2003.

Sec. 89.0041. NOTICE OF SUIT AGAINST COUNTY. (a) A person filing suit against a county or against a county official in the official's capacity as a county official shall deliver written notice to:

(1) the county judge; and

(2) the county or district attorney having jurisdiction to defend the county in a civil suit.

(b) The written notice must be delivered by certified or registered mail by the 30th business day after suit is filed and contain:

(1) the style and cause number of the suit;

(2) the court in which the suit was filed;

(3) the date on which the suit was filed; and

(4) the name of the person filing suit.

(c) If a person does not give notice as required by this section, the court in which the suit is pending shall dismiss the suit on a motion for dismissal made by the county or the county official.

Added by Acts 2003, 78th Leg., ch. 1203, Sec. 3, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 21, eff. September 1, 2005.

Sec. 89.005. JURORS AND WITNESSES. In a suit brought by or against a county, a resident of the county may be a juror or witness if the resident is otherwise competent.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 81.042 by Acts 1999, 76th Leg., ch. 62, Sec. 13.03(b), eff. Sept. 1, 1999.

Sec. 89.006. SATISFACTION OF JUDGMENT. The commissioners court shall settle and pay a judgment against the county in the same manner and pro rata as other similar claims are settled and paid by the court. Execution may not be issued on a judgment against a county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 81.043 by Acts 1999, 76th Leg., ch. 62, Sec.

13.03(b), eff. Sept. 1, 1999.

TITLE 4. FINANCES

SUBTITLE A. MUNICIPAL FINANCES

CHAPTER 101. GENERAL FINANCIAL PROVISIONS AFFECTING MUNICIPALITIES

SUBCHAPTER A. PROVISIONS AFFECTING TYPE A GENERAL-LAW MUNICIPALITIES

Sec. 101.001. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a Type A general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 101.002. CONTROL OF FINANCES. The governing body of the municipality may manage and control the finances of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 101.003. APPROPRIATIONS; PAYMENTS. The governing body of the municipality may appropriate money and provide for the payment of municipal debts and expenses.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 101.004. SPECIAL FUNDS; DISBURSEMENT. The governing body of the municipality may provide by ordinance for the creation of special funds for special purposes and may provide that a special fund may be disbursed only for the purpose for which the fund was created.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 101.005. DEBT PAYMENTS; IMPROVEMENTS. (a) The governing body of the municipality may appropriate municipal revenues to:

(1) retire and discharge the accrued indebtedness of the municipality;

(2) improve public markets and streets; or

(3) erect and operate municipal hospitals, a city hall,

waterworks, or other municipal buildings and facilities.

(b) The governing body may appropriate municipal revenues under this section in amounts and under conditions that it considers appropriate.

(c) In order to fulfill its functions under this section, the governing body may borrow money based on the credit of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 101.006. RECEIVERSHIP FOR PAYMENT OF DEBTS. (a) On the failure of the municipality to accomplish a compromise of its debts or pending the negotiation of a compromise, the municipality may apply to the district court of the county in which the municipality is located to have the court take charge of the collection and appropriation of all taxes levied and assessed by the municipality, except an amount of taxes necessary to pay the current expenses of the municipality. The application must describe the financial condition and insolvency of the municipality.

(b) After the application is made to the district court, the court shall appoint a receiver or designate the assessor and collector of the municipality as receiver to collect and pay into a named depository, for the payment of the municipal debts, all taxes levied by the municipality. The district court may not appoint a receiver except on the voluntary application of the municipality.

(c) The district court shall decide all questions of priority between conflicting claimants of the municipal funds in the depository and shall provide for the ratable and equitable distribution of the funds among all creditors entitled to the funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITIES

Sec. 101.021. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a home-rule municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 101.022. GENERAL FISCAL POWERS. The municipality may:

(1) control and manage the finances of the municipality; and

(2) prescribe its fiscal year and other fiscal arrangements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 101.0221. FISCAL YEAR FOR CERTAIN MUNICIPALITIES. Notwithstanding any fiscal year provision in the municipal charter, a municipality with a population in excess of 500,000 which is situated in a county bordering the Republic of Mexico may prescribe its fiscal year by ordinance.

Added by Acts 1993, 73rd Leg., ch. 618, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.14, eff. Sept. 1, 1999.

Sec. 101.023. GARNISHMENT. The municipality may provide that its municipal funds are not subject to garnishment and that the municipality is not required to answer in garnishment proceedings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. PROVISIONS APPLICABLE TO GENERAL-LAW MUNICIPALITIES

Sec. 101.041. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a general-law municipality.

Added by Acts 1993, 73rd Leg., ch. 68, Sec. 1, eff. May 2, 1993.

Sec. 101.042. FISCAL YEAR. The governing body of the municipality by ordinance may prescribe the fiscal year of the municipality.

Added by Acts 1993, 73rd Leg., ch. 68, Sec. 1, eff. May 2, 1993.

CHAPTER 102. MUNICIPAL BUDGET

Sec. 102.001. BUDGET OFFICER. (a) The mayor of a municipality serves as the budget officer for the governing body of the municipality except as provided by Subsection (b).

(b) If the municipality has the city manager form of government, the city manager serves as the budget officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 102.002. ANNUAL BUDGET REQUIRED. The budget officer shall prepare each year a municipal budget to cover the proposed expenditures of the municipal government for the succeeding year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 102.003. ITEMIZED BUDGET; CONTENTS. (a) The budget officer shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes made for the preceding year. The budget must show as definitely as possible each of the projects for which expenditures are set up in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget must contain a complete financial statement of the municipality that shows:

(1) the outstanding obligations of the municipality;

(2) the cash on hand to the credit of each fund;

(3) the funds received from all sources during the preceding year;

(4) the funds available from all sources during the ensuing year;

(5) the estimated revenue available to cover the proposed budget; and

(6) the estimated tax rate required to cover the proposed budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 102.004. INFORMATION FURNISHED BY MUNICIPAL OFFICERS AND

BOARDS. In preparing the budget, the budget officer may require any municipal officer or board to furnish information necessary for the budget officer to properly prepare the budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 102.005. PROPOSED BUDGET FILED WITH MUNICIPAL CLERK; PUBLIC INSPECTION. (a) The budget officer shall file the proposed budget with the municipal clerk before the 30th day before the date the governing body of the municipality makes its tax levy for the fiscal year.

(b) A proposed budget that will require raising more revenue from property taxes than in the previous year must contain a cover page with the following statement in 18-point or larger type: "This budget will raise more total property taxes than last year's budget by (insert total dollar amount of increase and percentage increase), and of that amount (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll) is tax revenue to be raised from new property added to the tax roll this year."

(c) The proposed budget shall be available for inspection by any person. If the municipality maintains an Internet website, the municipal clerk shall take action to ensure that the proposed budget is posted on the website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 1, eff. September 1, 2007.

Sec. 102.006. PUBLIC HEARING ON PROPOSED BUDGET. (a) The governing body of a municipality shall hold a public hearing on the proposed budget. Any person may attend and may participate in the hearing.

(b) The governing body shall set the hearing for a date occurring after the 15th day after the date the proposed budget is filed with the municipal clerk but before the date the governing body makes its tax levy.

(c) The governing body shall provide for public notice of the

date, time, and location of the hearing. The notice must include, in type of a size at least equal to the type used for other items in the notice, any statement required to be included in the proposed budget under Section 102.005(b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 2, eff. September 1, 2007.

Sec. 102.0065. SPECIAL NOTICE BY PUBLICATION FOR BUDGET HEARING. (a) The governing body of a municipality shall publish notice before a public hearing relating to a budget in at least one newspaper of general circulation in the county in which the municipality is located.

(b) Notice published under this section is in addition to notice required by other law, except that if another law requires the governing body to give notice, by publication, of a hearing on a budget this section does not apply.

(c) Notice under this section shall be published not earlier than the 30th or later than the 10th day before the date of the hearing.

(d) Notice under this section must include, in type of a size at least equal to the type used for other items in the notice, any statement required to be included in the proposed budget under Section 102.005(b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 24, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 402, Sec. 9, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 3, eff. September 1, 2007.

Sec. 102.007. ADOPTION OF BUDGET. (a) At the conclusion of the public hearing, the governing body of the municipality shall take action on the proposed budget. A vote to adopt the budget must be a record vote.

(b) The governing body may make any changes in the budget that it considers warranted by the law or by the best interest of the

municipal taxpayers.

(c) Adoption of a budget that will require raising more revenue from property taxes than in the previous year requires a separate vote of the governing body to ratify the property tax increase reflected in the budget. A vote under this subsection is in addition to and separate from the vote to adopt the budget or a vote to set the tax rate required by Chapter 26, Tax Code, or other law.

(d) An adopted budget must contain a cover page that includes:

(1) one of the following statements in 18-point or larger type that accurately describes the adopted budget:

(A) "This budget will raise more revenue from property taxes than last year's budget by an amount of (insert total dollar amount of increase), which is a (insert percentage increase) percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll).";

(B) "This budget will raise less revenue from property taxes than last year's budget by an amount of (insert total dollar amount of decrease), which is a (insert percentage decrease) percent decrease from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll)."; or

(C) "This budget will raise the same amount of revenue from property taxes as last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll).";

(2) the record vote of each member of the governing body by name voting on the adoption of the budget;

(3) the municipal property tax rates for the preceding fiscal year, and each municipal property tax rate that has been adopted or calculated for the current fiscal year, including:

(A) the property tax rate;

(B) the no-new-revenue tax rate;

(C) the no-new-revenue maintenance and operations tax rate;

(D) the voter-approval tax rate; and

(E) the debt rate; and

(4) the total amount of municipal debt obligations.

(e) In this section, "debt obligation" means an issued public security as defined by Section 1201.002, Government Code, secured by property taxes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 4, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1329 (S.B. 656), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 79, eff. January 1, 2020.

Sec. 102.008. APPROVED BUDGET FILED WITH MUNICIPAL CLERK: POSTING ON INTERNET. (a) On final approval of the budget by the governing body of the municipality, the governing body shall:

(1) file the budget with the municipal clerk; and

(2) if the municipality maintains an Internet website, take action to ensure that:

(A) a copy of the budget, including the cover page, is posted on the website; and

(B) the record vote described by Section 102.007(d)(2) is posted on the website at least until the first anniversary of the date the budget is adopted.

(b) The governing body shall take action to ensure that the cover page of the budget is amended to include the property tax rates required by Section 102.007(d)(3) for the current fiscal year if the rates are not included on the cover page when the budget is filed with the municipal clerk. The governing body shall file an amended cover page with the municipal clerk and take action to ensure that the amended cover page is posted on the municipality's website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 5, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1329 (S.B. 656), Sec. 2, eff. September 1, 2013.

Sec. 102.009. LEVY OF TAXES AND EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE. (a) The governing body of the municipality may levy taxes only in accordance with the budget.

(b) After final approval of the budget, the governing body may spend municipal funds only in strict compliance with the budget, except in an emergency.

(c) The governing body may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the governing body amends the original budget to meet an emergency, the governing body shall file a copy of its order or resolution amending the budget with the municipal clerk, and the clerk shall attach the copy to the original budget.

(d) After the adoption of the budget or a budget amendment, the budget officer shall provide for the filing of a true copy of the approved budget or amendment in the office of the county clerk of the county in which the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 102.010. CHANGES IN BUDGET FOR MUNICIPAL PURPOSES. This chapter does not prevent the governing body of the municipality from making changes in the budget for municipal purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 102.011. CIRCUMSTANCES UNDER WHICH CHARTER PROVISIONS CONTROL. If a municipality has already adopted charter provisions that require the preparation of an annual budget covering all municipal expenditures and if the municipality conducts a public hearing on the budget as provided by Section 102.006 and otherwise complies with the provisions of this chapter relating to property tax increases, the charter provisions control. After the budget has been finally prepared and approved, a copy of the budget and the amendments to the budget shall be filed with the county clerk, as required for other budgets under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 6, eff. September 1, 2007.

CHAPTER 103. AUDIT OF MUNICIPAL FINANCES

Sec. 103.001. ANNUAL AUDIT; FINANCIAL STATEMENT. (a) A municipality shall have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit.

(b) A municipality subject to Section 16.356, Water Code, must include in its financial statement a specific report on compliance with that section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 1, eff. Sept. 1, 1999.

Sec. 103.002. AUDITOR. A municipality whose records and accounts are not audited annually by a person prescribed by statute, by charter, or by a person in the regular employ of the municipality shall employ at its own expense a certified public accountant who is licensed in this state or a public accountant who holds a permit to practice from the Texas State Board of Public Accountancy to conduct the audit and to prepare the annual financial statement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 103.003. FILING; PUBLIC RECORD. (a) The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the municipal secretary or clerk within 180 days after the last day of the municipality's fiscal year.

(b) The financial statement is a public record.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 862 (H.B. 1456), Sec. 1, eff. June 15, 2007.

Sec. 103.004. VALUATION OF CERTAIN BENEFIT PROGRAMS. (a) A municipality that provides a continuing organized program of service retirement benefits, disability retirement benefits, or death benefits for any of its officers or employees must include in the annual financial statement a valuation of the financial assets and liabilities of the program as shown in the most recent actuarial valuation of the program.

(b) This section does not apply to:

(1) a program for which the only funding agency is a life insurance company;

(2) a program providing only workers' compensation benefits; or

(3) a program administered by the municipality as a member of the Texas Municipal Retirement System.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 103.005. ANNUAL AUDIT AND FILING OF FINANCIAL STATEMENT; PENALTY FOR NONCOMPLIANCE. (a) In this section:

(1) "No-new-revenue tax rate" means the no-new-revenue tax rate calculated under Chapter 26, Tax Code.

(2) "Tax year" has the meaning assigned by Section 1.04, Tax Code.

(b) A person may submit a complaint to the attorney general of a suspected violation of Section 103.001 or 103.003.

(c) Notwithstanding any other law, if the attorney general determines that a municipality has not had its records and accounts audited and an annual financial statement prepared based on the audit as required by Section 103.001 or has not filed the financial statement and the auditor's opinion on the statement in the office of the municipal secretary or clerk before the 180th day after the last day of the municipality's fiscal year as required by Section 103.003, the municipality may not adopt an ad valorem tax rate that exceeds the municipality's no-new-revenue tax rate:

(1) for the tax year that begins on or after the date of the attorney general's determination; or

(2) for a subsequent tax year that begins before the date the municipality has had an annual audit completed and financial statement prepared or filed the financial statement and auditor's

opinion on the financial statement with the municipal clerk, as applicable.

Added by Acts 2025, 89th Leg., R.S., Ch. 158 (S.B. 1851), Sec. 1, eff. September 1, 2025.

CHAPTER 104. MUNICIPAL INVESTMENT OF TRUST FUNDS AND SPECIAL DEPOSITS

Sec. 104.001. CHAPTER APPLICABLE TO CERTAIN HOME-RULE MUNICIPALITIES. This chapter applies only to a home-rule municipality with a population of one million or more whose charter provides for an elected comptroller, auditor, or treasurer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 86, eff. Sept. 1, 1991.

Sec. 104.002. AUTHORITY TO MAKE INVESTMENTS. (a) The municipality may invest trust funds and special deposits in the custody of the municipality.

(b) The municipal official responsible for managing and conducting the municipality's fiscal affairs shall make the investments. The investments are subject to the supervision and control of the governing body, as established by ordinance.

(c) The municipality may invest the funds in amounts that are not required for immediate disbursement according to official estimates by purchasing obligations of the United States government or by placing the funds in time deposit accounts with one or more depository banks of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 104.003. EFFECT OF EARLY WITHDRAWAL. If any of the funds placed in time deposit accounts are required before maturity, they shall be made available by the depository bank, but the bank is not liable for interest earned on any amount withdrawn before maturity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 104.004. INTEREST. The municipal official responsible for managing and conducting the fiscal affairs shall receive the interest earned on the investments and shall place the interest in the municipal general fund as compensation to the municipality for holding and handling the trust funds and special deposits for the benefit of the persons ultimately entitled to receive the funds and deposits.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 104.005. CUMULATIVE EFFECT WITH CHARTER PROVISIONS. This chapter is cumulative of the municipal powers of investment derived from the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 105. DEPOSITORIES FOR MUNICIPAL FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 105.001. DEFINITIONS. In this chapter:

(1) "Bank" means a state bank or a national bank that has its main office or a branch office in this state.

(2) "Credit union" means a state credit union or federal credit union domiciled in this state.

(3) "Demand deposit" means a deposit of funds that may be withdrawn on the demand of the depositor.

(4) "Depository" means the bank, credit union, or savings association selected by the municipality to provide depository services.

(5) "Time deposit" means a deposit of funds subject to a contract between the depositor and the depository under which the depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds.

(6) "Depository services" means the receipt and disbursement of funds by a depository in accordance with the terms of a depository services contract.

(7) "Depository services contract" means a contract executed by a municipality and a depository containing terms and conditions relating to the depository services to be provided by the

depository.

(8) "Designated officer" means the treasurer of a municipality or other officer of the municipality so designated by the governing body of a municipality.

(9) "Federal credit union" means a credit union organized under the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.).

(10) "Federal savings association" means a savings and loan association or a savings bank organized under federal law.

(11) "National bank" means a banking corporation organized under the provisions of 12 U.S.C. Section 21.

(12) "Savings association" means a savings association or savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state.

Text of subsec. (13) as amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.79

(13) "State bank" has the meaning assigned by Section 31.002(a), Finance Code.

Text of subsec. (13) as amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.008

(13) "State bank" means a bank organized under the laws of this state or another state.

(14) "State credit union" means a credit union organized under Subtitle D, Title 3, Finance Code.

(15) "State savings association" means any savings and loan association or savings bank organized under the laws of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 914, Sec. 9, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 7.79, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 344, Sec. 5.008, eff. Sept. 1, 1999.

Sec. 105.002. FUNDS AFFECTED. This chapter applies to the funds, including school funds, of any municipality or any department or agency of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 105.011. DEPOSITORY AUTHORIZED. (a) Before awarding a depository services contract to a depository, the governing body of a municipality shall receive applications for the performance of depository services from one or more banks, credit unions, or savings associations.

(b) The governing body may consider the application of a bank, credit union, or savings association that is not doing business within the municipality if:

(1) the bank, credit union, or savings association maintains a place of business within the state and offers within the state the services required by the depository services contract; and

(2) the governing body, prior to giving the notice required by Section 105.012, has adopted a written policy expressly permitting the consideration of applications received by the municipality from a bank, credit union, or savings association that is not doing business within the municipality, after taking into consideration what is in the best interest of the municipality in establishing a depository.

(c) The designated officer shall request, receive, and review applications for the performance of depository services. The designated officer shall present the specifications of each application to the governing body who will then select a depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 14(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.012. NOTICE. (a) The designated officer shall give notice to banks, credit unions, and savings associations requesting the submission of applications for the performance of depository services.

(b) The notice must contain:

(1) the name and address of the designated officer receiving the applications;

(2) the date and time the applications are to be received by the designated officer; and

(3) the date, time, and place the governing body of the

municipality will consider the selection of one or more depositories.

(c) Notice of the request shall be published at least once no later than 21 days prior to the deadline for receipt of applications for depository services contracts (i) in a newspaper of general circulation in the municipality and (ii) in a financial publication of general circulation published within this state; provided, that the notice required by clause (ii) shall not be required if the governing body has not adopted the written policy described in Section 105.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.013. APPLICATION. The designated officer may not consider an application if it is received after the date specified in the notice for receiving applications by the designated officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.014. REVIEW OF APPLICATIONS. In reviewing the applications, the designated officer shall consider the terms and conditions for the performance of depository services, including the type and cost of services to be provided to the municipality, consistent with any policy guidelines adopted by the governing body regarding the selection of one or more depositories.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.015. SELECTION OF DEPOSITORY. (a) The governing body of a municipality may authorize the designated officer to execute on the municipality's behalf one or more depository services contracts.

(b) The governing body may reject any of the applications and readvertise if all applications are rejected.

(c) The conflict of interests provisions of Section 131.903 apply to the selection of the depositories.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.014 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 25, eff. Sept. 1, 1993.

Sec. 105.016. DESIGNATION OF DEPOSITORY. (a) The governing body shall designate, by an order recorded in its minutes, the bank, credit union, or savings association to serve as a depository for the municipality's funds.

(b) If a bank, credit union, or savings association selected as a municipal depository does not provide security by the deadline prescribed by Section 105.031, the selection of the bank, credit union, or savings association as a depository is void, and the governing body may consider the application it deems to be the next most advantageous depository services application.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.015 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.017. TERM OF DEPOSITORY CONTRACT. A municipality may approve, execute, and deliver any depository services contract whose term does not exceed five years. The depository services contract may only contain terms and conditions approved by the governing body of the municipality.

Added by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.018. ADDITIONAL SERVICES. In addition to depository services, a municipality may contract with financial institutions, including banks, credit unions, and savings associations, for additional financial services under a separate contract if the governing body of the municipality determines that additional financial services are necessary in the administration, collection, investment, and transfer of municipal funds.

Added by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

Sec. 105.031. QUALIFICATION AS DEPOSITORY. (a) The bank or savings association, to qualify as a municipal depository, must, not later than five days before the commencement of the term of the depository services contract, provide security for the municipal funds to be deposited in accordance with the terms of the depository services contract.

(b) Chapter 2257, Government Code governs the type, level, substitution, possession, release, and method of valuation of the security necessary to secure the deposit of municipal funds.

(c) Repealed by Acts 2001, 77th Leg., ch. 402, Sec. 20(a), eff. Sept. 1, 2001.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(12), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 402, Sec. 20(a), eff. Sept. 1, 2001.

Sec. 105.033. SURETY BOND. (a) One or more bonds issued and executed by one or more solvent surety companies authorized to do business in this state, payable to the municipality and filed with the secretary and the designated officer of the municipality, qualify as security under this subchapter if the bonds are approved by the governing body.

(b) After the governing body approves a surety bond, it shall be filed with the secretary and the designated officer of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.034. CONDITIONS TO ACTING AS DEPOSITORY. (a) The depository shall:

(1) keep the municipal funds covered by the depository services contract;

(2) perform all duties and obligations imposed on the depository by law and under the depository services contract;

(3) pay on presentation all checks drawn and properly payable on a demand deposit account with the depository;

(4) pay all transfers properly payable as directed by a designated officer;

(5) provide and maintain security at the level required by the provisions of Chapter 2257, Government Code; and

(6) account for the municipal funds as required by law.

(b) Any suit brought in connection with a depository services contract must be tried in the county in which the city hall of the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(12), eff. Sept. 1, 1995.

SUBCHAPTER D. MAINTENANCE AND MODIFICATION OF SECURITY

Sec. 105.051. MAINTENANCE OF SECURITY. (a) A depository services contract shall contain terms and conditions relating to the possession, substitution, or release of security, including:

(1) requiring the depository to execute a new bond or pledge additional securities for the deposit of municipal funds;

(2) substituting one security for another;

(3) releasing securities pledged by a depository in excess of the amount required by this chapter;

(4) the time period in which such addition, substitution, or release of security by a depository may occur; and

(5) other matters relating to the possession, substitution, or release of security the municipality considers necessary for its protection.

(b) If a depository fails for any reason to comply with the requirements governing the possession, substitution, or release of security, the governing body may select a new depository in the manner provided in this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.053. SOLVENCY OF SURETY COMPANY AND ADEQUACY OF SECURITIES. At any time the governing body of the municipality considers it necessary for the protection of the municipality, the governing body may direct the designated officer to investigate the

solvency of a surety company that issues a bond on behalf of a municipal depository or investigate the value of securities pledged by a depository to secure municipal funds.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.056 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.054. SURRENDER OF INTEREST ON SECURITIES. Except as provided for in the collateral policies of the municipality adopted in accordance with Chapter 2257, Government Code, on request of a municipal depository, the municipality shall surrender, when due, interest coupons or other evidence of interest on securities deposited by the depository with the governing body if the securities remaining pledged by the depository are adequate to meet the requirements of this chapter and of the governing body.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.057 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(12), eff. Sept. 1, 1995.

SUBCHAPTER E. DEPOSITORY ACCOUNTS

Sec. 105.071. CHARACTER AND AMOUNT OF DEPOSITS. (a) The governing body of the municipality may determine and designate in the depository services contract the character and amount of municipal funds that will be demand deposits. However, the municipality has the right to maintain other investments of municipal funds in accordance with the investment policy adopted by the municipality.

(b) The designated officer may contract with a depository for interest on time deposits, including, without limitation, certificates of deposit, at any legal rate under federal or state law, rule, or regulation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.072. INVESTMENTS. The provisions of Chapter 810, Acts

of the 66th Legislature, Regular Session, 1979 (Article 4413(34c), Vernon's Texas Civil Statutes), and Subchapter A, Chapter 2256, Government Code shall govern the investment of municipal funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(11), eff. Sept. 1, 1995.

Sec. 105.073. DEPOSIT OF FUNDS. Not later than 60 days from the date the governing body of the municipality designates a depository in accordance with the provisions of Section 105.016, the designated officer of the municipality shall transfer to the depository all the municipal funds covered by the depository services contract under the control of the designated officer. The designated officer of the municipality shall as soon as practicable also deposit in the depository to the credit of the municipality any money covered by the depository services contract received after the depository is designated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.074. PAYMENT OF FUNDS. (a) The funds of the municipality may be paid out of a depository only at the direction of a designated officer.

(b) Except as provided in Subsection (g), a designated officer may draw a check on a depository only on a warrant signed by the mayor and attested by the secretary of the municipality.

(c) If there is sufficient money in a fund in a depository against which the proper authority has drawn a warrant, the designated officer on presentation of the warrant shall draw a check on the depository in favor of the legal holder of the warrant, retain the warrant, and charge the warrant against the fund on which it is drawn. The designated officer may not draw a warrant on a fund in a depository unless the fund has sufficient money to pay the warrant.

(d) A designated officer may not draw a check on any funds designated in the depository services contract as time deposits until notice has been given and the notice period has expired under the terms of the contract with the depository.

(e) The mayor and secretary of the municipality may not draw a warrant on a special fund in a depository or under the control of the designated officer that was created to pay the bonded indebtedness of the municipality other than to pay the principal of or interest on the indebtedness or to invest the fund as provided by law.

(f) The designated officer may not pay or draw a check to pay money out of a special fund that was created to pay the bonded indebtedness of the municipality other than to pay the principal of or interest on the indebtedness or to invest the fund as provided by law.

(g) Notwithstanding the provisions of Subsections (b) through (f), the governing body of a municipality may adopt procedures:

(1) governing the method by which the designated officer is authorized to direct payments from the funds of the municipality on deposit with a depository;

(2) governing the method of payment of obligations of the municipality, including payment by check, draft, wire transfer, or other method of payment mutually acceptable to the municipality and the depository; and

(3) the governing body determines are necessary to ensure the safety and integrity of the payment process.

(h) If a municipality adopts procedures in accordance with Subsection (g), a copy of the adopted procedures shall be filed with the depository. The designated officer and the depository shall agree upon record-keeping safeguards and other measures necessary to ensure the safety and integrity of the payment process. The safeguards must be approved by the governing body of the municipality if the governing body finds that the safeguards are consistent with and do not contravene the procedures adopted under Subsection (g).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.075. CHECKS PAYABLE AT DEPOSITORY. Checks drawn by the treasurer of the municipality against municipal funds on deposit are payable by the depository at its place of business in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.076. DEBTS PAYABLE OTHER THAN AT MUNICIPAL TREASURY. The governing body of the municipality may direct the designated officer to withdraw from a depository and deposit money sufficient to pay a bond, coupon, or other indebtedness of the municipality at a place other than at the municipal treasury if by its terms the indebtedness is payable on maturity or upon redemption prior to maturity at the other location.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. LIABILITY AND REPORT OF DESIGNATED OFFICER

Sec. 105.091. LIABILITY OF DESIGNATED OFFICER. (a) The designated officer is not responsible for any loss of municipal funds through the negligence, failure, or wrongful act of a depository. This subsection does not release the designated officer from responsibility for a loss resulting from the official misconduct of the designated officer, including a misappropriation of the funds, or from responsibility for the funds until a depository is selected and the funds are deposited.

(b) A designated officer who diverts money from an interest and sinking fund or who applies money in that fund for a purpose other than as permitted by Section 105.074(f) is:

(1) subject to a penalty of not less than $500 or more than $1,000; and

(2) liable for the amount of money that is diverted.

(c) The state is entitled to recover a penalty imposed under Subsection (b)(1). The amount of diverted money that is recovered under Subsection (b)(2) shall be paid into the municipal treasury to the credit of the fund from which it was diverted.

(d) The attorney general or the district attorney of the district in which the designated officer resides, or the county attorney in a county that is not served by a district attorney, may institute suit against the designated officer and the sureties on the designated officer's official bond to recover the amounts described by Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 227, Sec. 6, eff. Sept. 1, 1999.

Sec. 105.092. REPORT BY DESIGNATED OFFICER. In conjunction with the publication of the annual financial statement of the municipality, the designated officer shall prepare a report which shall describe in summary form:

(1) the amount of receipts and expenditures of the municipal treasury;

(2) the amount of money on hand in each fund;

(3) the amount of bonds becoming due for redemption that require action;

(4) the amount of interest to be paid during the next fiscal year; and

(5) any other information required by law to be reported by the designated officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 106. MUNICIPAL CHILD SAFETY TRUST FUND

Sec. 106.001. CREATION OF CHILD SAFETY TRUST FUND IN CERTAIN MUNICIPALITIES. A child safety trust fund shall be created in the treasury of a municipality with a population of more than 1.3 million.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.01, eff. Sept. 1, 1995.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 128, eff. September 1, 2023.

Sec. 106.002. DEPOSITS TO FUND. The following money shall be deposited in the fund:

(1) court costs collected under Article 102.014, Code of Criminal Procedure; and

(2) optional motor vehicle registration fees remitted to the municipality by the county under Section 502.403, Transportation

Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.214, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 12.001, eff. September 1, 2013.

Sec. 106.003. USE OF FUND. (a) Money in the fund shall be used for the purpose of providing school crossing guard services as provided by Chapter 343.

(b) After payment of the expenses of the school crossing guard services, any remaining money in the fund may be used for programs designed to enhance child safety, health, or nutrition, including child abuse intervention and prevention and drug and alcohol abuse prevention.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.01, eff. Sept. 1, 1995.

Sec. 106.004. AUDIT. (a) Money collected under this chapter is subject to audit by the comptroller.

(b) Money expended under this chapter is subject to audit in the same manner as other funds expended by a county or municipality.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.01, eff. Sept. 1, 1995.

CHAPTER 107. OBLIGATIONS FOR CERTAIN LIABILITIES TO PUBLIC PENSION FUNDS OF A MUNICIPALITY

Sec. 107.001. DEFINITIONS. In this chapter:

(1) "Obligation" includes a bond, certificate, note, or book entry obligation.

(2) "Unfunded liability" means an unfunded, accrued liability of a municipality to a public pension fund as determined by actuarial analysis.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.002. DEFINITION OF "PUBLIC PENSION FUND." In this chapter, "public pension fund":

(1) means a continuing, organized program or plan of service retirement, disability retirement, or death benefits for officers or employees of a municipality;

(2) includes a plan qualified under Section 401(a), Internal Revenue Code of 1986, as amended; and

(3) does not include:

(A) a program that provides only workers' compensation benefits;

(B) a program administered by the federal government;

(C) a plan described by Section 401(d), Internal Revenue Code of 1986, as amended;

(D) an individual retirement account consisting of an annuity contract described by Section 403(b), Internal Revenue Code of 1986, as amended;

(E) an individual retirement account as defined by Section 408(a), Internal Revenue Code of 1986, as amended;

(F) an individual retirement annuity as defined by Section 408(b), Internal Revenue Code of 1986, as amended;

(G) an eligible deferred compensation plan as defined by Section 457(b), Internal Revenue Code of 1986, as amended; or

(H) a program for which benefits are administered by a life insurance company or for which the only funding agency is a life insurance company.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.003. PENSION FUND OBLIGATIONS AUTHORIZED. (a) A municipality may issue obligations to fund all or any part of an unfunded liability.

(b) Before authorizing issuance and delivery of an obligation under this section, the governing body of the municipality must enter into a written agreement with the governing body of the public retirement system that:

(1) has fiduciary responsibility for assets of the public

pension fund or public pension funds that are to receive the net proceeds of the obligations to be issued; and

(2) has the duty to oversee the investment and expenditure of the assets of the public pension fund.

(c) The written agreement must state the amount of the unfunded liability and the date or dates on which the public pension fund will accept the net proceeds of the obligations to be issued in payment of all or a portion of the unfunded liability.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.0036. VOTER APPROVAL REQUIRED FOR CERTAIN PENSION FUND OBLIGATIONS. (a) This section applies only to a public pension fund subject to:

(1) Article 6243e.2(1), Revised Statutes;

(2) Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes); and

(3) Article 6243g-4, Revised Statutes.

(b) A municipality may issue an obligation under Section 107.003 to fund all or any part of the unfunded liability of a public pension fund subject to this section only if the issuance is approved by a majority of the qualified voters of the municipality voting at an election held for that purpose.

Added by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 4.01, eff. July 1, 2017.

Sec. 107.004. PROCEEDS OF OBLIGATIONS ISSUED. The municipality shall deposit the net proceeds of obligations issued under Section 107.003 to the credit of the public pension fund. The amount deposited under this section becomes part of the public pension fund's assets.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.005. PAYMENT OF OBLIGATIONS. An obligation issued under Section 107.003 may be made payable by the municipality from:

(1) the fund from which compensation is paid to its officers and employees;

(2) its general fund; or

(3) taxes, revenues, both taxes and revenues, or any other source or combination of sources of money that the municipality may use under state law to secure or pay any kind of bond or obligation.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, Sept. 1, 2003.

Sec. 107.006. OBLIGATION AS REFINANCING. An obligation issued under Section 107.003 is a complete or partial refinancing of a commitment of the municipality to fund its unfunded liability.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.007. SALE OF OBLIGATIONS; MATURITY. Obligations issued under Section 107.003 may be sold at private or public sale and must mature not later than the 30th anniversary of the date of issuance.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.008. ADDITIONAL AUTHORITY; CREDIT AGREEMENTS. (a) In this section, "credit agreement" and "obligation" have the meanings assigned by Section 1371.001, Government Code.

(b) The governing body of a municipality that issues obligations under Section 107.003 may exercise any of the rights or powers of the governing body of an issuer under Chapter 1371, Government Code, and may enter into a credit agreement under that chapter. An obligation issued under Section 107.003 is an obligation under Chapter 1371, Government Code, but is not required to be rated as required by that chapter.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.009. CHAPTER CONTROLLING. This chapter prevails over any conflict between this chapter and:

(1) another law respecting the issuance of obligations of a municipality; or

(2) a municipal home-rule charter.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

CHAPTER 108. MUNICIPAL BONDS FOR CERTAIN DEFINED AREAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 108.001. DEFINITION. In this chapter, "defined area" means a defined area created by a municipal utility district under Subchapter J, Chapter 54, Water Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 813 (S.B. 1535), Sec. 1, eff. June 15, 2007.

Sec. 108.002. APPLICATION OF CHAPTER. This chapter applies only to a municipality that under Section 43.075 or any other law abolishes a municipal utility district created under Section 59, Article XVI, Texas Constitution, that contains a defined area.

Added by Acts 2007, 80th Leg., R.S., Ch. 813 (S.B. 1535), Sec. 1, eff. June 15, 2007.

Sec. 108.003. CONFLICT WITH OTHER LAWS. To the extent of a conflict between this chapter and any other law, including Subchapter A, Chapter 372, this chapter controls.

Added by Acts 2007, 80th Leg., R.S., Ch. 813 (S.B. 1535), Sec. 1, eff. June 15, 2007.

SUBCHAPTER B. BONDS USED TO CARRY OUT PURPOSES OF DEFINED AREA IN ABOLISHED MUNICIPAL UTILITY DISTRICT

Sec. 108.051. BONDS ORIGINALLY AUTHORIZED IN ABOLISHED MUNICIPAL UTILITY DISTRICT; PROPERTY TAXES. (a) If, before its abolition, a municipal utility district voted to issue bonds secured by property taxes for a defined area under Section 54.806, Water Code, and if some or all of the bonds were not issued, sold, and

delivered before the abolition, the governing body of the municipality that abolished the district may issue and sell municipal bonds:

(1) in an amount not to exceed the amount of the unissued district bonds approved by the voters; and

(2) for the purpose of carrying out the purposes for which the district bonds were voted.

(b) The bonds are issued under the authority under which they were voted, particularly Section 59, Article XVI, Texas Constitution. The bonds must be secured by a tax under the authority under which they were voted, particularly a tax on the property in the defined area of the abolished district.

(c) The bonds must be authorized by ordinance of the governing body of the municipality. The ordinance must provide for the levy of taxes on all taxable property in the defined area of the abolished district to pay the principal of and interest on the bonds when due.

Added by Acts 2007, 80th Leg., R.S., Ch. 813 (S.B. 1535), Sec. 1, eff. June 15, 2007.

Sec. 108.052. BONDS AUTHORIZED UNDER PUBLIC IMPROVEMENT DISTRICT; ASSESSMENTS. (a) If, before its abolition, a municipal utility district voted to issue bonds secured by property taxes for a defined area under Section 54.806, Water Code, and if some or all of the bonds were not issued, sold, and delivered before the abolition, the governing body of the municipality that abolished the district may, on its own motion, establish a public improvement district under Subchapter A, Chapter 372, for the purpose of issuing and selling municipal bonds:

(1) in an amount not to exceed the amount of the unissued district bonds approved by the voters; and

(2) for the purpose of carrying out the purposes for which the district bonds were voted, including the cost of facilities constructed after creation of the defined area in accordance with the plan for improvements adopted by the board of directors of the abolished district.

(b) A municipality that establishes a public improvement district under this section may:

(1) enter into agreements with developers of property in

the public improvement district for the construction, acquisition, expansion, improvement, or extension of improvements in the public improvement district;

(2) reimburse a developer for the costs of the improvements through assessments payable in installments on property in the public improvement district;

(3) pledge any type of assessment, including installment assessments, levied against property in the public improvement district as security for bonds and agreements; and

(4) structure the assessments in any manner determined by the governing body of the municipality.

(c) In structuring an assessment under this section, the municipality may include in the assessment:

(1) a coverage factor;

(2) any prepayment dates;

(3) terms or amounts; and

(4) any other methodology or amounts determined necessary or convenient by the governing body of the municipality.

(d) Any bonds issued by the municipality under this section must be authorized by ordinance of the governing body of the municipality and shall provide for the collection of the assessments as authorized by Subchapter A, Chapter 372, and this chapter.

(e) The bonds may be payable in installments, as determined by the governing body of the municipality, against the property in the defined area.

(f) The municipality may use the bonds to:

(1) pay or reimburse a developer for public improvements in the public improvement district under a development or other agreement with the developer;

(2) pay the principal of and interest on the bonds when due; or

(3) pay any combination of purposes described by Subdivisions (1) and (2).

Added by Acts 2007, 80th Leg., R.S., Ch. 813 (S.B. 1535), Sec. 1, eff. June 15, 2007.

Sec. 108.053. PLEDGES TO SECURE BONDS. The municipality may further pledge any available funds to secure the bonds, including

taxes or other revenue.

Added by Acts 2007, 80th Leg., R.S., Ch. 813 (S.B. 1535), Sec. 1, eff. June 15, 2007.

Sec. 108.054. CHOICE OF LAWS. (a) A municipality may exercise powers under Section 108.051 or 108.052, but may not exercise powers under both sections for the same defined area.

(b) A municipality that exercises powers under Section 108.051 or 108.052 to reimburse a developer's infrastructure costs in a defined area shall not be required to provide payment to the developer under Section 43.0715.

Added by Acts 2007, 80th Leg., R.S., Ch. 813 (S.B. 1535), Sec. 1, eff. June 15, 2007.

Sec. 108.055. CONFLICT WITH MUNICIPAL CHARTER. This subchapter prevails over a municipal charter provision to the extent of a conflict with this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 813 (S.B. 1535), Sec. 1, eff. June 15, 2007.

Sec. 108.056. EFFECT ON OTHER MUNICIPAL BONDS. This subchapter does not affect the authority of a municipality to issue bonds for other purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 813 (S.B. 1535), Sec. 1, eff. June 15, 2007.

CHAPTER 109. DETERMINATION OF DEFUNDING MUNICIPALITIES

Sec. 109.001. DEFINITION. In this chapter, "division" means the criminal justice division of the office of the governor.

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 1.01, eff. September 1, 2021.

Sec. 109.002. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality with a population of more than 250,000.

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 1.01, eff. September 1, 2021.

Sec. 109.003. DEFUNDING DETERMINATION. Except as provided by Section 109.004, a defunding municipality is a municipality:

(1) that adopts a budget for a fiscal year that, in comparison to the municipality's preceding fiscal year, reduces the appropriation to the municipality's police department; and

(2) for which the division issues a written determination finding that the municipality has made the reduction described by Subdivision (1).

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 1.01, eff. September 1, 2021.

Sec. 109.004. EXCEPTIONS. (a) A municipality is not considered to be a defunding municipality under Section 109.003 if:

(1) for a fiscal year in which the municipality adopts a budget that is less than the budget for the preceding fiscal year, the percentage reduction to the appropriation to the municipality's police department does not exceed the percentage reduction to the total budget; or

(2) before the adoption of a budget, the municipality applies for and is granted approval from the division for a reduction to the appropriation to the municipality's police department to account for:

(A) capital expenditures related to law enforcement during the preceding fiscal year;

(B) the municipality's response to a state of disaster declared under Section 418.014, Government Code; or

(C) another reason approved by the division.

(b) For purposes of making a determination of whether a municipality is a defunding municipality under this chapter, a municipality's appropriation to the municipality's police department does not include:

(1) any grant money received by the municipality during any

fiscal year; or

(2) any sales and use tax revenue received by the municipality for the purpose of financing a crime control and prevention district under Chapter 363.

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 1.01, eff. September 1, 2021.

Sec. 109.005. TERMINATION OF DEFUNDING DETERMINATION. A municipality's defunding determination under Section 109.003 continues until the division issues a written determination finding that the municipality has reversed the reduction, adjusted for inflation, described by Section 109.003(1).

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 1.01, eff. September 1, 2021.

Sec. 109.006. DIVISION DUTIES. (a) The division shall:

(1) compute the inflation rate used to make determinations under Section 109.005 each state fiscal year using a price index that accurately reports changes in the purchasing power of the dollar for municipalities in this state; and

(2) publish the inflation rate in the Texas Register.

(b) The division shall adopt rules establishing the criteria the division uses to approve reductions under Section 109.004(2).

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 1.01, eff. September 1, 2021.

SUBTITLE B. COUNTY FINANCES

CHAPTER 111. COUNTY BUDGET

SUBCHAPTER A. BUDGET PREPARATION IN COUNTIES WITH POPULATION OF 225,000 OR LESS

Sec. 111.001. SUBCHAPTER APPLICABLE TO COUNTIES WITH POPULATION OF 225,000 OR LESS; EXCEPTION. This subchapter applies only to a county that has a population of 225,000 or less and that does not operate under Subchapter C.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 11(e), eff. Aug. 28, 1989.

Sec. 111.002. COUNTY JUDGE AS BUDGET OFFICER. The county judge serves as the budget officer for the commissioners court of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.003. ANNUAL BUDGET REQUIRED. (a) Not later than August 15, the county judge, assisted by the county auditor or county clerk, shall prepare a budget to cover all proposed expenditures of the county government for the succeeding fiscal year.

(b) A proposed budget that will require raising more revenue from property taxes than in the previous year must contain a cover page with the following statement in 18-point or larger type: "This budget will raise more total property taxes than last year's budget by (insert total dollar amount of increase and percentage increase), and of that amount (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll) is tax revenue to be raised from new property added to the tax roll this year."

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 117, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 7, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 612 (S.B. 1357), Sec. 1, eff. June 14, 2021.

Sec. 111.004. ITEMIZED BUDGET; CONTENTS. (a) The county judge shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes that were made for the preceding fiscal year. The budget must show as definitely as possible each of the projects for which an appropriation is established in the budget and the estimated amount of money carried

in the budget for each project.

(b) The budget must contain a complete financial statement of the county that shows:

(1) the outstanding obligations of the county;

(2) the cash on hand to the credit of each fund of the county government;

(3) the funds received from all sources during the preceding fiscal year;

(4) the funds available from all sources during the ensuing fiscal year;

(5) the estimated revenues available to cover the proposed budget; and

(6) the estimated tax rate required to cover the proposed budget.

(c) In preparing the budget, the county judge shall estimate the revenue to be derived from taxes to be levied and collected in the succeeding fiscal year and shall include that revenue in the estimate of funds available to cover the proposed budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.005. INFORMATION FURNISHED BY COUNTY OFFICERS. (a) In preparing the budget, the county judge may require any county officer to furnish existing information necessary for the judge to properly prepare the budget.

(b) If a county officer fails to provide the information as required by the county judge, the county judge may request the commissioners court to issue an order:

(1) directing the county officer to produce the required information; and

(2) prescribing the form in which the county officer must produce the information.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1197, Sec. 1, eff. June 20, 1997.

Sec. 111.006. PROPOSED BUDGET FILED WITH COUNTY CLERK; PUBLIC INSPECTION. (a) Not later than August 15, the county judge shall file a copy of the proposed budget with the county clerk.

(b) The copy of the proposed budget shall be available for inspection by any person. If the county maintains an Internet website, the county clerk shall take action to ensure that the proposed budget is posted on the website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 8, eff. September 1, 2007.
Acts 2021, 87th Leg., R.S., Ch. 612 (S.B. 1357), Sec. 2, eff. June 14, 2021.

Sec. 111.007. PUBLIC HEARING ON PROPOSED BUDGET. (a) The commissioners court shall hold a public hearing on the proposed budget. Any person may attend and may participate in the hearing.
(b) The commissioners court shall hold the hearing not later than the 25th day after the day the budget is filed under Section 111.006 but before the commissioners court adopts the county's ad valorem tax rate for the current tax year.
(c) The commissioners court shall give public notice that it will consider the proposed budget on the date of the hearing. The notice must state the date, time, and location of the hearing. The notice must include, in type of a size at least equal to the type used for other items in the notice, any statement required to be included in the proposed budget under Section 111.003(b). The commissioners court shall give notice under this subsection:
(1) not earlier than the 30th day before the date of the hearing; and
(2) not later than the 10th day before the date of the hearing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 117, Sec. 2, eff. Sept. 1, 1989.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 9, eff. September 1, 2007.
Acts 2021, 87th Leg., R.S., Ch. 612 (S.B. 1357), Sec. 3, eff. June 14, 2021.

Sec. 111.0075. SPECIAL NOTICE BY PUBLICATION FOR BUDGET HEARING. (a) A commissioners court shall publish notice before a public hearing relating to a budget in at least one newspaper of general circulation in the county.

(b) Notice published under this section is in addition to notice required by other law. Notice under this section shall be published not earlier than the 30th or later than the 10th day before the date of the hearing.

(c) This section does not apply to a commissioners court required by other law to give notice by publication of a hearing on a budget.

(d) Notice under this section must include, in type of a size at least equal to the type used for other items in the notice, any statement required to be included in the proposed budget under Section 111.003(b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 26, eff. Sept. 1, 1993. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 10, eff. September 1, 2007.

Sec. 111.008. ADOPTION OF BUDGET. (a) At the conclusion of the public hearing, the commissioners court shall take action on the proposed budget. A vote to adopt the budget must be a record vote.

(b) The commissioners court may make any changes in the proposed budget that it considers warranted by the law and required by the interest of the taxpayers.

(c) Adoption of a budget that will require raising more revenue from property taxes than in the previous year requires a separate vote of the commissioners court to ratify the property tax increase reflected in the budget. A vote under this subsection is in addition to and separate from the vote to adopt the budget or a vote to set the tax rate required by Chapter 26, Tax Code, or other law.

(d) An adopted budget must contain a cover page that includes:

(1) one of the following statements in 18-point or larger type that accurately describes the adopted budget:

(A) "This budget will raise more revenue from property taxes than last year's budget by an amount of (insert total dollar amount of increase), which is a (insert percentage increase) percent

increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll).";

(B) "This budget will raise less revenue from property taxes than last year's budget by an amount of (insert total dollar amount of decrease), which is a (insert percentage decrease) percent decrease from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll)."; or

(C) "This budget will raise the same amount of revenue from property taxes as last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll).";

(2) the record vote of each member of the commissioners court by name voting on the adoption of the budget;

(3) the county property tax rates for the preceding fiscal year, and each county property tax rate that has been adopted or calculated for the current fiscal year, including:

(A) the property tax rate;

(B) the no-new-revenue tax rate;

(C) the no-new-revenue maintenance and operations tax rate;

(D) the voter-approval tax rate; and

(E) the debt rate; and

(4) the total amount of county debt obligations.

(e) In this section, "debt obligation" means an issued public security as defined by Section 1201.002, Government Code, secured by property taxes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 11, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1329 (S.B. 656), Sec. 3, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 80, eff. January 1, 2020.

Sec. 111.009. APPROVED BUDGET FILED WITH COUNTY CLERK: POSTING ON INTERNET. (a) On final approval of the budget by the commissioners court, the court shall:

(1) file the budget with the county clerk; and

(2) if the county maintains an Internet website, take action to ensure that:

(A) a copy of the budget, including the cover page, is posted on the website; and

(B) the record vote described by Section 111.008(d)(2) is posted on the website at least until the first anniversary of the date the budget is adopted.

(b) The commissioners court shall take action to ensure that the cover page of the budget is amended to include the property tax rates required by Section 111.008(d)(3) for the current fiscal year if the rates are not included on the cover page when the budget is filed with the county clerk. The commissioners court shall file an amended cover page with the county clerk and take action to ensure that the amended cover page is posted on the county's website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 12, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1329 (S.B. 656), Sec. 4, eff. September 1, 2013.

Sec. 111.010. LEVY OF TAXES AND EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE; BUDGET TRANSFER. (a) The commissioners court may levy taxes only in accordance with the budget.

(b) After final approval of the budget, the commissioners court may spend county funds only in strict compliance with the budget, except in an emergency.

(c) The commissioners court may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the

use of reasonably diligent thought and attention. If the court amends the original budget to meet an emergency, the court shall file a copy of its order amending the budget with the county clerk, and the clerk shall attach the copy to the original budget.

(d) The commissioners court by order may amend the budget to transfer an amount budgeted for one item to another budgeted item without authorizing an emergency expenditure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 167, Sec. 1, 2, eff. May 25, 1989.

Sec. 111.0105. BUDGET FOR EXPENDITURES FROM PROCEEDS OF BONDS OR OTHER OBLIGATIONS. If a county bond issue is submitted at an election or other authorized obligations are to be issued against future revenues and a tax is to be levied for those obligations, the commissioners court shall adopt a budget of proposed expenditures. On receipt of the proceeds of the sale of the bonds or other obligations, the county may make expenditures from the proceeds in the manner provided by this subchapter for expenditures for general purposes.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 2, eff. June 20, 1997.

Sec. 111.0106. SPECIAL BUDGET FOR GRANT OR AID MONEY. The county auditor or the county judge in a county that does not have a county auditor shall certify to the commissioners court the receipt of all public or private grant or aid money that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the grant or aid money for its intended purpose.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 2, eff. June 20, 1997.

Sec. 111.0107. SPECIAL BUDGET FOR REVENUE FROM INTERGOVERNMENTAL CONTRACTS. The county auditor or the county judge in a county that does not have a county auditor shall certify to the commissioners court the receipt of all revenue from intergovernmental

contracts that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the revenue from intergovernmental contracts for its intended purpose.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 2, eff. June 20, 1997.

Sec. 111.0108. SPECIAL BUDGET FOR REVENUE RECEIVED AFTER START OF FISCAL YEAR. The county auditor or the county judge in a county that does not have a county auditor shall certify to the commissioners court the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. On certification, the court may adopt a special budget for the limited purpose of spending the revenue for general purposes or for any of its intended purposes.

Added by Acts 2001, 77th Leg., ch. 938, Sec. 1, eff. Sept. 1, 2001.

Sec. 111.011. CHANGES IN BUDGET FOR COUNTY PURPOSES. This subchapter does not prevent the commissioners court from making changes in the budget for county purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.012. PENALTY. (a) An officer, employee, or official of a county government who refuses to comply with this subchapter commits an offense.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $100 or more than $1,000, confinement in the county jail for not less than one month or more than one year, or by both fine and confinement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.013. LIMITATION ON BUDGET OF COUNTY AUDITOR. An increase from one fiscal year to the next in the amount budgeted for

expenses of the county auditor's office or the salary of an assistant auditor shall not exceed five (5) percent without approval of the commissioners court.

Added by Acts 1991, 72nd Leg., ch. 600, Sec. 3, eff. June 15, 1991; Acts 1991, 72nd Leg., ch. 739, Sec. 1, eff. Aug. 26, 1991.

Sec. 111.014. RESERVE ITEM. Notwithstanding any other provision of this subchapter, a county may establish in the budget a reserve or contingency item. The item must be included in the itemized budget under Section 111.004(a) in the same manner as a project for which an appropriation is established in the budget.

Added by Acts 2003, 78th Leg., ch. 301, Sec. 5, eff. Sept. 1, 2003.

SUBCHAPTER B. BUDGET PREPARATION IN COUNTIES WITH POPULATION OF MORE THAN 225,000

Sec. 111.031. SUBCHAPTER APPLICABLE TO COUNTIES WITH POPULATION OF MORE THAN 225,000; EXCEPTION. This subchapter applies only to a county that has a population of more than 225,000 and that does not operate under Subchapter C.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.032. COUNTY AUDITOR AS BUDGET OFFICER. The county auditor serves as budget officer for the commissioners court of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.033. ANNUAL BUDGET REQUIRED. (a) Within 30 days before the first day of each fiscal year or on or immediately after that first day, the county auditor shall prepare a budget to cover the proposed expenditures of the county government for that fiscal year.

(b) A proposed budget that will require raising more revenue from property taxes than in the previous year must contain a cover

page with the following statement in 18-point or larger type: "This budget will raise more total property taxes than last year's budget by (insert total dollar amount of increase and percentage increase), and of that amount (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll) is tax revenue to be raised from new property added to the tax roll this year."

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 563 (S.B. 1510), Sec. 1, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 13, eff. September 1, 2007.
Reenacted by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.002, eff. September 1, 2009.

Sec. 111.034. ITEMIZED BUDGET; CONTENTS. (a) The county auditor shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes that were made for the preceding fiscal year. The budget must show with reasonable accuracy each project for which an appropriation is established in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget must contain a complete financial statement of the county that shows:

(1) the outstanding obligations of the county;

(2) the cash on hand to the credit of each fund of the county government;

(3) the funds received from all sources during the preceding fiscal year;

(4) the funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year;

(5) the funds and revenue estimated by the auditor to be received from all sources during the ensuing fiscal year; and

(6) a statement of all accounts and contracts on which sums are due to or owed by the county as of the last day of the preceding fiscal year, except for taxes and court costs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.035. LIMITATION ON EXPENDITURES BEFORE ADOPTION OF BUDGET. Until a budget for a fiscal year is adopted by the commissioners court, the county may not make payments during that fiscal year except for emergencies and for obligations legally incurred before the first day of the fiscal year for salaries, utilities, materials, and supplies.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.036. INFORMATION FURNISHED BY OFFICERS. In preparing the budget, the county auditor may require any district, county, or precinct officer of the county to provide information necessary for the auditor to properly prepare the budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.037. PROPOSED BUDGET FILED WITH COUNTY CLERK; PUBLIC INSPECTION. (a) The county auditor shall file a copy of the proposed budget with the county clerk.

(b) The copy of the proposed budget shall be available for public inspection by any person. If the county maintains an Internet website, the county clerk shall take action to ensure that the proposed budget is posted on the website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 14, eff. September 1, 2007.

Sec. 111.038. PUBLIC HEARING ON PROPOSED BUDGET. (a) The commissioners court shall hold a public hearing on the proposed budget. Any person may attend and may participate in the hearing.

(b) The commissioners court shall hold the hearing on a day within 10 calendar days after the date the proposed budget is filed but before the last day of the first month of the fiscal year.

(c) The commissioners court shall publish notice that it will consider the proposed budget on the date of the budget hearing. The notice must be published once in a newspaper of general circulation in the county and must state the date, time, and location of the hearing.

(d) Notice under this section must include, in type of a size at least equal to the type used for other items in the notice, any statement required to be included in the proposed budget under Section 111.033(b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 552, Sec. 1, eff. June 18, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 15, eff. September 1, 2007.

Sec. 111.0385. SPECIAL NOTICE BY PUBLICATION FOR BUDGET HEARING. (a) A commissioners court shall publish notice before a public hearing relating to a budget in at least one newspaper of general circulation in the county.

(b) Notice published under this section is in addition to notice required by other law. Notice under this section shall be published not earlier than the 30th or later than the 10th day before the date of the hearing.

(c) This section does not apply to a commissioners court required by other law to give notice by publication of a hearing on a budget.

(d) Notice under this section must include, in type of a size at least equal to the type used for other items in the notice, any statement required to be included in the proposed budget under Section 111.033(b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 27, eff. Sept. 1, 1993. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 16, eff. September 1, 2007.

Sec. 111.039. ADOPTION OF BUDGET. (a) At the conclusion of the public hearing, the commissioners court shall take action on the

proposed budget. A vote to adopt the budget must be a record vote.

(b) The commissioners court may make any changes in the proposed budget that it considers warranted by the facts and law and required by the interest of the taxpayers, but the amounts budgeted in a fiscal year for expenditures from the various funds of the county may not exceed the balances in those funds as of the first day of the fiscal year, plus the anticipated revenue for the fiscal year as estimated by the county auditor.

(c) Adoption of a budget that will require raising more revenue from property taxes than in the previous year requires a separate vote of the commissioners court to ratify the property tax increase reflected in the budget. A vote under this subsection is in addition to and separate from the vote to adopt the budget or a vote to set the tax rate required by Chapter 26, Tax Code, or other law.

(d) An adopted budget must contain a cover page that includes:

(1) one of the following statements in 18-point or larger type that accurately describes the adopted budget:

(A) "This budget will raise more revenue from property taxes than last year's budget by an amount of (insert total dollar amount of increase), which is a (insert percentage increase) percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll).";

(B) "This budget will raise less revenue from property taxes than last year's budget by an amount of (insert total dollar amount of decrease), which is a (insert percentage decrease) percent decrease from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll)."; or

(C) "This budget will raise the same amount of revenue from property taxes as last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll).";

(2) the record vote of each member of the commissioners court by name voting on the adoption of the budget;

(3) the county property tax rates for the preceding fiscal year, and each county property tax rate that has been adopted or

calculated for the current fiscal year, including:

(A) the property tax rate;

(B) the no-new-revenue tax rate;

(C) the no-new-revenue maintenance and operations tax rate;

(D) the voter-approval tax rate; and

(E) the debt rate; and

(4) the total amount of county debt obligations.

(e) In this section, "debt obligation" means an issued public security as defined by Section 1201.002, Government Code, secured by property taxes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 17, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1329 (S.B. 656), Sec. 5, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 81, eff. January 1, 2020.

Sec. 111.040. APPROVED BUDGET FILED WITH OFFICERS: POSTING ON INTERNET. (a) On final approval of the budget by the commissioners court, the court shall:

(1) file a copy of the budget with the county auditor and the county clerk; and

(2) if the county maintains an Internet website, take action to ensure that:

(A) a copy of the budget, including the cover page, is posted on the website; and

(B) the record vote described by Section 111.039(d)(2) is posted on the website at least until the first anniversary of the date the budget is adopted.

(b) The commissioners court shall take action to ensure that the cover page of the budget is amended to include the property tax rates required by Section 111.039(d)(3) for the current fiscal year if the rates are not included on the cover page when the budget is filed with the county clerk. The commissioners court shall file an amended cover page with the county clerk and take action to ensure

that the amended cover page is posted on the county's website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 100, eff. Sept. 1, 1989. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 18, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1329 (S.B. 656), Sec. 6, eff. September 1, 2013.

Sec. 111.041. EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE; BUDGET TRANSFER. (a) The commissioners court may spend county funds only in strict compliance with the budget, except as provided by this section.

(b) The commissioners court may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the court amends the original budget to meet an emergency, the court shall file a copy of its order amending the budget with the county clerk, and the clerk shall attach the copy to the original budget.

(c) The commissioners court by order may amend the budget to transfer an amount budgeted for one item to another budgeted item without authorizing an emergency expenditure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1197, Sec. 3, eff. June 20, 1997.

Sec. 111.0415. CHANGES IN BUDGET FOR COUNTY PURPOSES. This subchapter does not prevent the commissioners court from making changes in the budget for county purposes.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 4, eff. June 20, 1997.

Sec. 111.042. BUDGET FOR EXPENDITURES FROM PROCEEDS OF BONDS OR OTHER OBLIGATIONS. If a county bond issue is submitted at an election or other authorized obligations are to be issued against

future revenues and a tax is to be levied for those obligations, the commissioners court shall adopt a budget of proposed expenditures. On receipt of the proceeds of the sale of the bonds or other obligations, the county may make expenditures from the proceeds in the manner provided by this subchapter for expenditures for general purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1197, Sec. 5, eff. June 20, 1997.

Sec. 111.043. SPECIAL BUDGET FOR GRANT OR AID MONEY. The county auditor shall certify to the commissioners court the receipt of all public or private grant or aid money that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the grant or aid money for its intended purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.0431. SPECIAL BUDGET FOR REVENUE FROM INTERGOVERNMENTAL CONTRACTS. The county auditor shall certify to the commissioners court the receipt of all revenue from intergovernmental contracts that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the revenue from intergovernmental contracts for its intended purpose.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 6, eff. June 20, 1997.

Sec. 111.0432. SPECIAL BUDGET FOR REVENUE RECEIVED AFTER START OF FISCAL YEAR. The county auditor shall certify to the commissioners court the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. On certification, the court may adopt a special budget for the limited purpose of spending the revenue for general purposes or for any of its intended purposes.

Added by Acts 2001, 77th Leg., ch. 938, Sec. 2, eff. Sept. 1, 2001.

Sec. 111.044. LIMITATION ON BUDGET OF COUNTY AUDITOR. An increase from one fiscal year to the next in the amount budgeted for expenses of the county auditor's office or the salary of an assistant auditor shall not exceed five (5) percent without approval of the commissioners court.

Added by Acts 1991, 72nd Leg., ch. 600, Sec. 4, eff. June 15, 1991; Acts 1991, 72nd Leg., ch. 739, Sec. 2, eff. Aug. 26, 1991.

Sec. 111.045. RESERVE ITEM. Notwithstanding any other provision of this subchapter, a county may establish in the budget a reserve or contingency item. The item must be included in the itemized budget under Section 111.034(a) in the same manner as a project for which an appropriation is established in the budget.

Added by Acts 2003, 78th Leg., ch. 301, Sec. 6, eff. Sept. 1, 2003.

SUBCHAPTER C. ALTERNATE METHOD OF BUDGET PREPARATION IN COUNTIES WITH POPULATION OF MORE THAN 125,000

Sec. 111.061. SUBCHAPTER APPLICABLE TO COUNTIES WITH POPULATION OF MORE THAN 125,000. This subchapter applies only to a county that has a population of more than 125,000 and that chooses to operate under this subchapter instead of under Subchapter A or B.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 11(e), eff. Aug. 28, 1989.

Sec. 111.062. APPOINTMENT OF BUDGET OFFICER; ABOLITION OF OFFICE. (a) The commissioners court of the county may appoint a county budget officer to prepare a county budget for the fiscal year.

(b) A county that establishes the office of county budget officer may abolish that office only by a formal action of the commissioners court. The court must take the action after the first day of the second month of the fiscal year and before the first day of the sixth month of the fiscal year. If the office is abolished,

the duties of budget officer shall be performed by:

(1) the county judge, if the county has a population of 225,000 or less; or

(2) the county auditor, if the county has a population of more than 225,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 593, Sec. 1, eff. June 13, 1993.

Sec. 111.063. ITEMIZED BUDGET; CONTENTS. (a) The budget officer shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual or estimated expenditures for the same or similar purposes that were made for the preceding fiscal year. The budget must show with reasonable accuracy each of the projects for which an appropriation is established in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget officer shall obtain from the county auditor any information necessary to prepare a complete financial statement for inclusion in the budget. The financial statement must show:

(1) the outstanding obligations of the county;

(2) the cash on hand to the credit of each fund of the county government;

(3) funds received from all sources during the preceding fiscal year;

(4) the funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year;

(5) the funds and revenue estimated by the auditor to be received during the ensuing year; and

(6) a statement of all accounts and contracts on which sums are due to or owed by the county as of the last day of the preceding fiscal year, except for taxes and court costs.

(c) If actual amounts for the information described by Subsection (b)(1), (b)(2), (b)(3), or (b)(6) are not available at the time the budget officer prepares the financial statement, the budget officer may use in the preparation of the statement estimates of that information made by the county auditor.

(d) Subsection (c) does not prevent the commissioners court from adopting a budget before the beginning of the fiscal year for

which the budget is prepared.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1044, Sec. 1, eff. Sept. 1, 1989.

Sec. 111.064. LIMITATION ON EXPENDITURES BEFORE ADOPTION OF BUDGET. Until a budget for a fiscal year is adopted by the commissioners court, the county may not make payments during that fiscal year except for emergencies and for obligations legally incurred before the first day of the fiscal year for salaries, utilities, materials, and supplies.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.065. INFORMATION FURNISHED BY OFFICERS. In preparing or monitoring the budget, the budget officer may require the county auditor or any other district, county, or precinct officer of the county to provide any information necessary for the budget officer to properly prepare or monitor the budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.066. PROPOSED BUDGET FILED WITH COUNTY CLERK AND COUNTY AUDITOR; PUBLIC INSPECTION. (a) The budget officer shall file a copy of the proposed budget with the county clerk and the county auditor.

(b) The copy of the proposed budget shall be available for public inspection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.067. PUBLIC HEARING ON PROPOSED BUDGET. (a) The commissioners court shall hold a public hearing on the proposed budget. Any taxpayer of the county may attend and may participate in the hearing.

(b) The commissioners court shall hold the hearing on a day within 10 calendar days after the date the proposed budget is filed

but before the last day of the first month of the fiscal year.

(c) The commissioners court shall publish notice that it will consider the proposed budget on the date of the budget hearing. The notice must be published once in a newspaper of general circulation in the county and must state the date, time, and location of the hearing.

(d) Notice under this section must include, in type of a size at least equal to the type used for other items in the notice, any statement required to be included in the proposed budget under Section 111.033(b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 552, Sec. 2, eff. June 18, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 924 (H.B. 3195), Sec. 19, eff. September 1, 2007.

Sec. 111.0675. COMMISSIONERS COURT: SPECIAL NOTICE BY PUBLICATION FOR BUDGET HEARING. (a) A commissioners court shall publish notice before a public hearing relating to a budget in at least one newspaper of general circulation in the county.

(b) Notice published under this section is in addition to notice required by other law. Notice under this section shall be published not earlier than the 30th or later than the 10th day before the date of the hearing.

(c) This section does not apply to a commissioners court required by other law to give notice by publication of a hearing on a budget.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 28, eff. Sept. 1, 1993.

Sec. 111.068. ADOPTION OF BUDGET. (a) At the conclusion of the public hearing, the commissioners court shall take action on the proposed budget. A vote to adopt the budget must be a record vote.

(b) The commissioners court may make any changes in the proposed budget that it considers warranted by the facts and law and required by the interest of the taxpayers, but the amounts budgeted in a fiscal year for expenditures from the various funds of the county may not exceed the balances in those funds as of the first day

of the fiscal year, plus the anticipated revenue for the fiscal year as estimated by the county auditor.

(c) An adopted budget must contain a cover page that includes:

(1) one of the following statements in 18-point or larger type that accurately describes the adopted budget:

(A) "This budget will raise more revenue from property taxes than last year's budget by an amount of (insert total dollar amount of increase), which is a (insert percentage increase) percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll).";

(B) "This budget will raise less revenue from property taxes than last year's budget by an amount of (insert total dollar amount of decrease), which is a (insert percentage decrease) percent decrease from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll)."; or

(C) "This budget will raise the same amount of revenue from property taxes as last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll).";

(2) the record vote of each member of the commissioners court by name voting on the adoption of the budget;

(3) the county property tax rates for the preceding fiscal year, and each county property tax rate that has been adopted or calculated for the current fiscal year, including:

(A) the property tax rate;

(B) the no-new-revenue tax rate;

(C) the no-new-revenue maintenance and operations tax rate;

(D) the voter-approval tax rate; and

(E) the debt rate; and

(4) the total amount of county debt obligations.

(d) In this section, "debt obligation" means an issued public security as defined by Section 1201.002, Government Code, secured by property taxes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1329 (S.B. 656), Sec. 7, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 82, eff. January 1, 2020.

Sec. 111.069. APPROVED BUDGET FILED WITH OFFICERS; POSTING ON INTERNET. (a) On final approval of the budget by the commissioners court, the court shall:

(1) file a copy of the budget with the county auditor and the county clerk; and

(2) if the county maintains an Internet website, take action to ensure that:

(A) a copy of the budget, including the cover page, is posted on the website; and

(B) the record vote described by Section 111.068(c)(2) is posted on the website at least until the first anniversary of the date the budget is adopted.

(b) The commissioners court shall take action to ensure that the cover page of the budget is amended to include the property tax rates required by Section 111.068(c)(3) for the current fiscal year if the rates are not included on the cover page when the budget is filed with the county clerk. The commissioners court shall file an amended cover page with the county clerk and take action to ensure that the amended cover page is posted on the county's website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 101, eff. Sept. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 457 (S.B. 1692), Sec. 1, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1329 (S.B. 656), Sec. 8, eff. September 1, 2013.

Sec. 111.070. EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE; BUDGET TRANSFER. (a) The commissioners court may spend county funds only in strict compliance with the budget, except

as provided by this section.

(b) The commissioners court may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the court amends the original budget to meet an emergency, the court shall file a copy of its order amending the budget with the county clerk and the clerk shall attach the copy to the original budget.

(c) The commissioners court by order may:

(1) amend the budget to transfer an amount budgeted for one item to another budgeted item without authorizing an emergency expenditure; or

(2) designate the county budget officer or another officer or employee of the county who may, as appropriate and subject to conditions and directions provided by the court, amend the budget by transferring amounts budgeted for certain items to other budgeted items.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1197, Sec. 7, eff. June 20, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 1121 (H.B. 2458), Sec. 1, eff. June 18, 2005.

Sec. 111.0705. BUDGET FOR EXPENDITURES FROM PROCEEDS OF BONDS OR OTHER OBLIGATIONS. If a county bond issue is submitted at an election or other authorized obligations are to be issued against future revenues and a tax is to be levied for those obligations, the commissioners court shall adopt a budget of proposed expenditures. On receipt of the proceeds of the sale of the bonds or other obligations, the county may make expenditures from the proceeds in the manner provided by this subchapter for expenditures for general purposes.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 8, eff. June 20, 1997.

Sec. 111.0706. SPECIAL BUDGET FOR GRANT OR AID MONEY. The county auditor shall certify to the commissioners court the receipt

of all public or private grant or aid money that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the grant or aid money for its intended purpose.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 8, eff. June 20, 1997.

Sec. 111.0707. SPECIAL BUDGET FOR REVENUE FROM INTERGOVERNMENTAL CONTRACTS. (a) The county auditor shall certify to the commissioners court the receipt of all revenue from intergovernmental contracts that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the revenue from intergovernmental contracts for its intended purpose.

(b) The county treasurer shall notify the county auditor of the receipt of all revenue from intergovernmental contracts not previously included in a special budget or the annual budget for that fiscal year.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 8, eff. June 20, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 5, eff. September 1, 2011.

Sec. 111.07075. SPECIAL BUDGET FOR REVENUE RECEIVED AFTER START OF FISCAL YEAR. (a) The county auditor shall certify to the commissioners court the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. On certification, the court may adopt a special budget for the limited purpose of spending the revenue for general purposes or for any of its intended purposes.

(b) The county treasurer shall notify the county auditor of the receipt of all revenue from a new source not anticipated before the adoption of the budget and not previously included in a special budget or the annual budget for that fiscal year.

Added by Acts 2001, 77th Leg., ch. 938, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 5, eff. September 1, 2011.

Sec. 111.0708. PLEDGING REVENUE AS SECURITY FOR BONDS AND OTHER OBLIGATIONS. In preparing a county budget, a county may secure county bonds or other obligations by pledging for the term of the bonds or other obligations:

(1) any security authorized by law; or

(2) any revenue or receipts obtained by the county from the levy of a state tax if the state is required to pay the county the proceeds or receipts from the tax.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 8, eff. June 20, 1997.

Sec. 111.0709. CHANGES IN BUDGET FOR COUNTY PURPOSES. This subchapter does not prevent the commissioners court from making changes in the budget for county purposes.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 8, eff. June 20, 1997.

Sec. 111.071. BUDGET OFFICER'S ASSISTANCE TO COMMISSIONERS COURT. The budget officer may assist the commissioners court in the performance of the court's duties relating to the efficiency and effectiveness of county operations.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.072. DUTIES RETAINED BY COUNTY AUDITOR. The duties given under Subchapter B to the county auditor that are not expressly conferred by this subchapter on the budget officer remain duties of the county auditor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.073. EMPLOYMENT OF PERSONNEL. The commissioners court

may employ personnel necessary to assist the budget officer in the performance of the duties of that office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.074. LIMITATION ON BUDGET OF COUNTY AUDITOR. An increase from one fiscal year to the next in the amount budgeted for expenses of the county auditor's office or the salary of an assistant auditor shall not exceed five (5) percent without approval of the commissioners court.

Added by Acts 1991, 72nd Leg., ch. 600, Sec. 5, eff. June 15, 1991; Acts 1991, 72nd Leg., ch. 739, Sec. 3, eff. Aug. 26, 1991.

Sec. 111.075. RESERVE ITEM. Notwithstanding any other provision of this subchapter, a county may establish in the budget a reserve or contingency item. The item must be included in the itemized budget under Section 111.063(a) in the same manner as a project for which an appropriation is established in the budget.

Added by Acts 2003, 78th Leg., ch. 301, Sec. 7, eff. Sept. 1, 2003.

SUBCHAPTER D. BUDGET APPROPRIATIONS

Sec. 111.091. APPROPRIATION ACCOUNTS. (a) On the adoption and certification of a general or special county budget, the county auditor shall open an appropriation account for each main budgeted or special item in the budget.

(b) The county auditor shall enter to an appropriation account each warrant drawn against that appropriation.

(c) The county auditor periodically shall inform the commissioners court of the condition of the appropriation accounts.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.092. DEPARTMENTAL EXPENSES NOT TO EXCEED APPROPRIATIONS. The county auditor shall oversee the warrant process to ensure that the expenses of any department do not exceed the

budget appropriations for that department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.093. APPROPRIATIONS FOR PURCHASES, CONTRACTS, SALARIES, OR LABOR EXPENSES IN COUNTY WITH POPULATION OF MORE THAN 225,000. (a) This section applies only to a county with a population of more than 225,000.

(b) The county auditor shall charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriation accounts.

(c) A requisition issued or a contract for work, labor, services, or materials and supplies that is entered into in the manner provided by law by a proper authority is not binding until the county auditor certifies that the budget contains an ample provision for the obligation and that funds are or will be available to pay the obligation when due.

(d) The amount allocated in the budget for a purchase order, requisition, contract, special purpose, or salary or labor account may not be allocated for any other purpose unless an unexpended balance remains in the account after full discharge of the obligation or unless the requisition, contract, or allocation is canceled in writing by the commissioners court or a county officer for a valid reason.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 111.094. ITEMIZED BUDGET. The commissioners court in preparing the county budget shall determine the amount of county funds to be spent for the juvenile probation department in the county budget.

Added by Acts 1997, 75th Leg., ch. 1197, Sec. 9, eff. June 20, 1997.

Sec. 111.095. SPECIAL FUNDS. (a) This section shall apply to all funds maintained and controlled by a county tax assessor-collector that are not included in the county budget.

(b) At least 60 days before the first day of the county's

fiscal year, the county tax assessor-collector shall prepare a budget for the expenditure of the funds during that fiscal year and file a copy of that budget with the county budget officer. The county budget officer shall make a copy of the budget filed with the budget officer available to the public at all reasonable times. The budget filed with the county budget officer is not subject to approval by the commissioners court of the county, but any member of the public is entitled to speak for or against the budget during the county's budget process. Funds in the accounts under this section may be spent only in compliance with the budget filed with the county budget officer under this subsection.

(c) Funds in the accounts under this section may not be used to supplement the salary or cover the personal expenses of the county tax assessor-collector.

(d) The provisions of this section are cumulative with the provisions of other statutes pertaining to county funds.

Added by Acts 2001, 77th Leg., ch. 938, Sec. 4, eff. Sept. 1, 2001.

Sec. 111.096. BUDGETED POSITIONS FOR JUDICIARY. Notwithstanding any other law, the commissioners court in preparing the county budget for a fiscal year shall determine the number of any additional positions authorized under Section 75.401, Government Code, to be included in the budget and the maximum compensation for those positions.

Added by Acts 2017, 85th Leg., R.S., Ch. 1110 (H.B. 4104), Sec. 1, eff. September 1, 2017.

CHAPTER 112. COUNTY FINANCIAL ACCOUNTING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. ACCOUNTING SYSTEM IN COUNTY WITH COUNTY AUDITOR AND POPULATION OF LESS THAN 190,000. In a county with a population of less than 190,000, the county auditor may adopt and enforce regulations, not inconsistent with law or with a rule adopted under Section 112.003, that the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.002. ACCOUNTING SYSTEM IN COUNTY WITH COUNTY AUDITOR AND POPULATION OF 190,000 OR MORE. (a) In a county with a population of 190,000 or more, the county auditor shall prescribe the system of accounting for the county.

(b) The county auditor may adopt and enforce regulations, not inconsistent with law or with a rule adopted under Section 112.003, that the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county or to a person for whom a district clerk, district attorney, county officer, or precinct officer has made a collection or for whose use or benefit the officer holds or has received funds.

(c) A regulation adopted under this section may not be inconsistent with generally accepted accounting principles as established by the Governmental Accounting Standards Board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 761, Sec. 1, eff. Aug. 30, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1224 (H.B. 2365), Sec. 3, eff. June 15, 2007.

Acts 2017, 85th Leg., R.S., Ch. 1047 (H.B. 1930), Sec. 2, eff. June 15, 2017.

Sec. 112.003. COMPTROLLER'S AUTHORITY TO PRESCRIBE FORMS AND DETERMINE MANNER OF STATING ACCOUNTS; UNIFORM CHART OF ACCOUNTS. (a) The comptroller of public accounts shall prescribe and prepare the forms to be used by county officials in the collection of county revenue, funds, fees, and other money and in the disbursement of funds. The comptroller shall prescribe the manner of keeping and stating the accounts of the officials.

(b) A county may use the uniform chart of accounts developed and recommended by the Texas County Financial Data Advisory Committee and implemented by the comptroller in reporting financial data or other pertinent information to the state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 2001, 77th Leg., ch. 676, Sec. 1, eff. Sept. 1, 2001.

Sec. 112.004. ACCOUNTS KEPT FOR OFFICERS BY COUNTY CLERK. (a) This section applies only to a county that does not have the office of county auditor.

(b) The county clerk shall keep in the county finance ledger an account for each officer of the county, district, or state who is authorized or required by law to receive or collect money or other property that is intended for the use of the county or that belongs to the county. At the top of each page in an officer's account, the clerk shall state the name of the officer and the title of the office.

(c) The clerk shall keep any other accounts necessary to carry out the purposes of this subtitle and shall conveniently index the accounts.

(d) The clerk shall enter items daily in the proper accounts.

(e) Every financial report and voucher must be filed with the clerk, who shall effectively preserve the report or voucher and note it briefly in the proper account.

(f) The clerk shall balance each account maintained under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.005. ACCOUNTS KEPT FOR OFFICERS BY COUNTY AUDITOR. (a) The county auditor shall maintain an account for each county, district, or state officer authorized or required by law to receive or collect money or other property that is intended for the use of the county or that belongs to the county.

(b) In the account, the auditor shall detail the items of indebtedness charged against that officer and the manner of discharging the indebtedness.

(c) The auditor shall require each person who receives money that belongs to the county or who has responsibility for the disposition or management of any property of the county to render statements to the auditor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.006. GENERAL OVERSIGHT AUTHORITY OF COUNTY AUDITOR. (a) The county auditor has general oversight of the books and records of a county, district, or state officer authorized or required by law to receive or collect money or other property that is intended for the use of the county or that belongs to the county.

(b) The county auditor shall see to the strict enforcement of the law governing county finances.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.007. COUNTY AUDITOR'S RECORDS OF COUNTY FINANCIAL TRANSACTIONS. The county auditor shall keep a general set of records to show all the transactions of the county relating to accounts, contracts, indebtedness of the county, and county receipts and disbursements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.009. COUNTY AUDITOR PERFORMING DUTIES INSTEAD OF COUNTY CLERK. If a duty imposed by this subtitle on the county auditor is the same or nearly the same as a duty imposed by law on the county clerk, the county clerk is relieved of the duty.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.010. COUNTY FISCAL YEAR. (a) The county fiscal year is the calendar year unless the commissioners court of the county adopts a different fiscal year as provided by Subsection (b) or (c).

(b) At a regular meeting, the commissioners court of a county may by order adopt as the county fiscal year a one-year period that begins on October 1 of each year.

(c) At a regular meeting, the commissioners court of a county with a population of 3.3 million or more may by order adopt as the county fiscal year a one-year period that begins on October 1 or March 1 of each year. In the order, the commissioners court may provide for the transition from one fiscal year to another by designating an interim fiscal year that may be longer or shorter than a 12-month period.

(d) The commissioners court of a county that has adopted a fiscal year under Subsection (b) or (c) may, by order adopted at a regular meeting, revert to a fiscal year that is the calendar year.

(e) If a law prescribes a certain date or month each year for an action relating to a county budget and the law is based on the assumption that the county fiscal year corresponds to the calendar year, in a county that has a fiscal year other than the calendar year the law shall be construed as prescribing a date or month that bears the same relationship to the beginning of the fiscal year that the specified date or month bears to January 1.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 49, eff. Sept. 1, 2001.

SUBCHAPTER B. TAX ACCOUNTS AND RECORDS

Sec. 112.031. ACCOUNT FOR TAX ASSESSOR-COLLECTOR. In keeping an account for the county tax assessor-collector, the county clerk must:

(1) keep a separate account for each separate fund on the tax rolls;

(2) state in each separate account the name of the tax assessor-collector, the character of the fund entered on the tax rolls, and the year for which the tax is assessed; and

(3) keep separate and distinct the taxes assessed for each year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.032. RECEIPT FOR TAX ROLLS; CREDITS. (a) When the tax rolls are ready for delivery to the tax assessor-collector, the court or officer that has control of the tax rolls shall obtain a written receipt from the tax assessor-collector for the rolls.

(b) The receipt must specify the amount assessed and due to the county as listed on the tax rolls and shall state separately the amount assessed to each fund.

(c) The court or officer shall deliver the receipt to the county clerk, who shall charge in the proper account in the county finance records the tax assessor-collector with the amount stated in the receipt. Those amounts shall be treated as debts owed to the

county by the tax assessor-collector.

(d) The tax assessor-collector shall discharge the indebtedness within the time prescribed by law by filing receipts with the county clerk for the discharged indebtedness as follows:

(1) the commission due to the tax assessor-collector;

(2) proper vouchers for any amount that the tax assessor-collector is required to pay out of money on hand; and

(3) the county treasurer's receipt for the money paid into the treasury.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.033. INDIGENT AND DELINQUENT TAX LISTS. (a) The tax assessor-collector shall make separate lists of indigent and delinquent taxpayers. Each list must show the name of the taxpayer and the amount owed.

(b) The commissioners court shall carefully examine each list and shall, by an order entered on the minutes of the court, state the names of the taxpayers and the amounts that are judged uncollectible.

(c) After the order has been made and entered, the tax assessor-collector is entitled to be credited with the amounts judged uncollectible in the proper accounts in the county finance records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.034. DELIVERY OF TAX ROLLS TO SUCCESSOR. (a) On leaving office, the outgoing tax assessor-collector shall deliver the tax rolls in that officer's possession to the successor officer. The successor officer shall give to the outgoing tax assessor-collector a written receipt for the amount of taxes owed on those rolls.

(b) The receipt must specify the amount of each fund and each year separately and must also indicate the amount due on the indigent and delinquent taxpayer lists.

(c) The outgoing tax assessor-collector shall deliver the receipts to the county clerk, who shall enter those allowed by the commissioners court to the credit of the officer who presents them. The clerk shall charge the credited amounts to the successor officer in the proper accounts.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.035. OCCUPATION TAX RECORDS. (a) The tax assessor-collector shall collect all occupation taxes owed to the county without assessment. That officer shall give the person who pays the tax a written receipt that states the person's name, the occupation for which the tax is imposed, the period for which the tax payment is made, and the amounts collected for the state and for the county.

(b) On payment of the tax, the tax assessor-collector shall:

(1) issue the person a license in the name of the state, the county, or both, according to the tax that the person paid, that authorizes the person to engage in the occupation during the period for which the tax is paid; and

(2) pay into the treasury the amount of the tax collected for the county.

(c) The tax assessor-collector shall keep an occupation tax account.

(d) At the end of each month, the tax assessor-collector shall make two reports. The tax assessor-collector shall mail the first report, relating to licenses issued on taxes paid to the state, to the comptroller of public accounts. If authorized by the comptroller, the report may be submitted electronically instead of by mail. The tax assessor-collector shall file the second report, relating to licenses issued on taxes paid to the county, with a county officer designated by the commissioners court. Each report must contain the information stated in the receipt for the tax and shall be dated and signed under the tax assessor-collector's official seal.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 573 (H.B. 1471), Sec. 1, eff. September 1, 2005.

SUBCHAPTER C. OTHER SPECIFIC ACCOUNTS

Sec. 112.051. SHERIFF ACCOUNT. (a) Except as provided by Subsection (c), the county clerk shall keep an account for the county sheriff that charges the sheriff with each judgment, fine,

forfeiture, or penalty that is payable to and rendered in any court of the county and that the sheriff is charged by law to collect. The sheriff may discharge the liability by producing the county treasurer's receipt that shows payment of the judgment, fine, forfeiture, or penalty.

(b) The sheriff may also discharge the liability by showing to the satisfaction of the commissioners court that the judgment, fine, forfeiture, or penalty cannot be collected or that it has been discharged through imprisonment or labor or by escape occurring without the sheriff's fault or neglect. The sheriff must obtain an order of the commissioners court that allows the discharge.

(c) The sheriff is not liable for a judgment, fine, forfeiture, or penalty if the judgment, fine, forfeiture, or penalty is collected by:

(1) a public or private vendor under Article 103.0031, Code of Criminal Procedure; or

(2) the county treasurer or county auditor as required by Section 154.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 217, Sec. 4, eff. May 23, 1995.

Sec. 112.052. JUSTICE OF THE PEACE ACCOUNT. (a) Except as provided by Subsection (c), a fine imposed or a judgment rendered by a justice of the peace shall be charged against that justice.

(b) The justice may discharge the indebtedness by:

(1) filing with the county clerk the county treasurer's receipt for the amount of the indebtedness;

(2) showing to the satisfaction of the commissioners court that the justice has used due diligence to collect the amount without avail; or

(3) showing to the satisfaction of the commissioners court that the indebtedness has been satisfied by imprisonment or labor.

(c) The justice is not liable for a fine imposed or judgment rendered by the justice if the fine or judgment is collected by:

(1) a public or private vendor under Article 103.0031, Code of Criminal Procedure; or

(2) the county treasurer or county auditor as required by Section 154.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 217, Sec. 5, eff. May 23, 1995.

Sec. 112.053. ESTRAY ACCOUNT. (a) If a notice of an estray is filed with the county clerk, the clerk shall keep an estray account on the debit side of the county finance ledger. The estray account must show the date of the notice, the name of the person who reported the estray, and a brief description of the animal. The clerk shall leave the amount of the charge blank until the sheriff files an account of the sale of the estray.

(b) When the account of the sale is filed, the county clerk shall enter the net amount due to the county from the sale in the blank in the estray account. When the county treasurer's receipt is presented to the clerk, indicating the amount paid into the county treasury because of the sale, the clerk shall enter that amount on the credit side of the estray account, showing the date, the name of the person paying, the amount paid, and a brief description of the animal. The clerk shall then charge that amount on the debit side of the county treasurer's account.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 112.054. COUNTY TREASURER ACCOUNT. (a) The county clerk shall keep an account for the county treasurer in the county finance ledger. In that account, the clerk shall charge the treasurer separately with each amount for which the treasurer gives a receipt to the sheriff, county tax assessor-collector, or other person who pays the amount into the treasury.

(b) The clerk shall credit the treasurer with each amount paid out by the treasurer after the commissioners court has approved the treasurer's report of the payments. The clerk shall also credit the treasurer with the legal commissions of the treasurer's office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 113. MANAGEMENT OF COUNTY MONEY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 113.0001. DEFINITIONS. In this chapter:

(1) "Depository" means the financial institution selected under Section 116.021 for safekeeping of the county treasury.

(2) "Depository account" means an account covered by the depository agreement, including required collateral.

(3) "Money" means an item or medium of exchange such as coins, currency, checks, or other means of payment, including electronic payment.

(4) "Treasury" means the money belonging to the county held by the county treasurer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 6, eff. September 1, 2011.

Sec. 113.001. COUNTY TREASURER AS CHIEF CUSTODIAN OF MONEY. The county treasurer, as chief custodian of county funds, shall keep in a designated depository and shall account for all money belonging to the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 113.002. COUNTY TREASURER'S RECORD OF RECEIPTS AND EXPENDITURES. The county treasurer shall keep an account of the receipts and expenditures of all money that the treasurer receives by virtue of the office and of all debts due to and owed by the county. The treasurer shall keep accurate, detailed accounts of all the transactions of the treasurer's office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 113.003. RECEIPT OF MONEY BY COUNTY TREASURER. The county treasurer shall receive all money belonging to the county from whatever source it may be derived.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 113.004. CLASSES OF COUNTY FUNDS. (a) The county treasurer shall divide the funds received by the treasurer's office

into three classes. The treasurer shall appropriate the money in each class of funds to the payment of the claims registered in the corresponding class of claims.

(b) The classes of funds consist of:

(1) jury fees, money received from the sale of estrays, and occupation taxes;

(2) money received under the provisions of a road and bridge law, including penalties recovered from railroads for the failure to repair crossings, and all fines and forfeitures; and

(3) other money received by the treasurer's office that is not otherwise appropriated by this section or by the commissioners court.

(c) The commissioners court, as it considers proper, may require other accounts to be kept, creating other classes of funds. The court may require scrip to be issued against those accounts and to be registered accordingly.

(d) The commissioners court by order may transfer money on hand from one fund to another as it considers necessary, but amounts that belong to the first class of funds may not be transferred from the payment of claims registered in that class unless there is an excess amount in that class.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 113.005. LIABILITY OF COUNTY TREASURER. (a) The county treasurer is not responsible for any loss of the county funds through the failure or negligence of a depository. This subsection does not release the treasurer from responsibility for a loss resulting from the official misconduct or negligence of the treasurer, including a misappropriation of the funds, or from responsibility for funds until a depository is selected and the funds are deposited.

(b) A treasurer who diverts money from an interest and sinking fund or who applies money in that fund for a purpose other than as permitted by Section 113.041(h) is:

(1) subject to a penalty of not less than $500 or more than $1,000; and

(2) liable for the amount of money that is diverted.

(c) The state is entitled to recover a penalty imposed under Subsection (b)(1). The amount of diverted money that is recovered

under Subsection (b)(2) shall be paid into the county treasury to the credit of the fund from which it was diverted.

(d) The attorney general or the district attorney of the district in which the treasurer resides, or the county attorney in a county that is not served by a district attorney, may institute suit against the treasurer and the sureties on the treasurer's official bond to recover the amounts described by Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 227, Sec. 7, eff. Sept. 1, 1999.

Sec. 113.006. LIABILITY OF COUNTY TAX ASSESSOR-COLLECTOR. A county tax assessor-collector and any surety on the assessor-collector's bond are relieved of responsibility for safekeeping funds collected from taxes after the funds are deposited as required by law with the county depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 113.008. RECONCILIATION OF DEPOSITORY ACCOUNTS. (a) The county depository shall provide statements of all bank activity and documentation supporting a statement's transactions not less than once a month to the county treasurer.

(b) The county depository shall provide the information required by Subsection (a) to the official responsible for the account if:

(1) the checks and orders for payment are payable from funds under the direct authority of an official other than the county treasurer as provided by statute; and

(2) the official has not delegated the responsibility for reconciliation under Subsection (b-1).

(b-1) The official may request the county treasurer to be responsible for the reconciliation of the checks and orders for payment payable from the funds that are under the direct authority of the official. Except as provided by Subsection (g), an official who fails to reconcile the official's special accounts monthly shall transfer responsibility for account reconciliation to the county treasurer. Unless the official and county treasurer set another period in writing for the duration of a transfer under this section,

the transfer is effective for the duration of the term of office for the designating officer.

(c) In fulfilling the requirements of Subsections (a) and (b), the county depository shall provide, at the direction of the county treasurer and in accordance with the rules adopted by the Texas State Library and Archives Commission, originals, optical images, or electronic images of:

(1) canceled checks and orders for payment;

(2) deposit detail;

(3) debit and credit memoranda; or

(4) electronic transmission detail.

(d) The county treasurer shall:

(1) reconcile all balances and transactions for each treasury account in the county depository's statement of activity to the transactions and balances shown on the treasurer's records; and

(2) ensure all financial adjustments are made regarding the depository account as required.

(e) In this section, a reference to the county treasurer includes a person performing the duties of the county treasurer.

(f) Except as provided by Subsection (g), an official with special funds in the depository bank shall:

(1) reconcile all balances and transactions in the statement of activity to the transactions and balances shown on the official's records; and

(2) each month, ensure all financial adjustments resulting from the reconciliation are reported to the county auditor for entry in the general set of records and reflected in the cash receipts and disbursement registers of the county treasurer.

(g) Subsections (b-1) and (f)(2) do not apply to a special fund administered by an attorney representing the state under Chapter 18, 47, or 59, Code of Criminal Procedure.

Added by Acts 1997, 75th Leg., ch. 140, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 7, eff. September 1, 2011.

Sec. 113.009. CIVIL LIABILITY OF COUNTY TAX ASSESSOR-COLLECTOR; AUDIT BY COMPTROLLER. (a) Unless an audit of a county tax assessor-

collector's office is conducted under Subsection (b), a civil cause of action may not be commenced against a county tax assessor-collector later than four (4) years after the term of the tax assessor-collector ends as provided by Subsection (d).

(b) The comptroller may conduct an audit of the books, records, and accounts of a county tax assessor-collector's office that relate to the assessor-collector's administration of public funds during a term of office. The comptroller shall provide an assessor-collector with notice of an audit under this subsection not later than the first anniversary of the date the term of office that is the subject of the audit ends. An audit must be completed not later than the second anniversary of the date the term of office that is the subject of the audit ends.

(c) If an audit is conducted under Subsection (b), a civil action described by Subsection (a) may not be commenced later than four (4) years after the date the audit conducted under Subsection (b) is completed.

(d) For purposes of this section, a term of office of an assessor-collector ends on:

(1) the date the term expires under law, whether or not the assessor-collector serves during the succeeding term, for an assessor-collector who is serving at the time the term expires; or

(2) the date a successor takes office for an assessor-collector who does not continue serving until the time the term expires under law.

Added by Acts 1999, 76th Leg., ch. 661, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. DEPOSIT OF MONEY

Sec. 113.021. REQUIREMENT THAT MONEY BE DEPOSITED WITH COUNTY TREASURER; INTEREST. (a) The fees, commissions, funds, and other money belonging to a county shall be deposited with the county treasurer by the person who collects the money. The person must deposit the money in accordance with any applicable procedures prescribed by or under Section 112.001 or 112.002. However, the county tax assessor-collector must deposit the money in accordance with the procedures prescribed by or under the Tax Code and other laws.

(b) The county treasurer shall deposit the money in the county

depository in the proper fund to the credit of the person or department collecting the money.

(c) The interest accruing on the money in the fund is for the benefit of the county in accordance with other law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 8, eff. September 1, 2011.

Sec. 113.022. TIME FOR MAKING DEPOSITS. (a) A county officer or other person who receives money shall deposit the money with the county treasurer on or before the next regular business day after the date on which the money is received. If this deadline cannot be met, the officer or person must deposit the money, without exception, on or before the fifth business day after the day on which the money is received. However, in a county with fewer than 50,000 inhabitants, the commissioners court may extend the period during which funds must be deposited with the county treasurer, but the period may not exceed 15 days after the date the funds are received.

(b) A county treasurer shall deposit the money received under Subsection (a) in the county depository in accordance with Section 116.113(a). In all cases, the treasurer shall deposit the money on or before the seventh business day after the date the treasurer receives the money.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 836 (H.B. 892), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 8, eff. September 1, 2011.

Sec. 113.023. DEPOSIT WARRANTS. (a) Except as provided by Subsection (c), each deposit made in the county treasury must be made on a deposit warrant. The deposit warrant authorizes the county treasurer to receive the amount stated in the warrant. The warrant must state the purpose for which the amount is received and the fund to which it is to be applied.

(b) The county treasurer shall keep the original deposit warrant. The county treasurer shall provide the county clerk or the county auditor with duplicate deposit warrants or a written report of all deposit warrants received that contains detailed information about each warrant. On the request of a person making a deposit, the county treasurer may provide a duplicate deposit warrant to the person. If the county has a county auditor, the auditor shall enter the amount in the auditor's books, charging the amount to the county treasurer and crediting the person who deposited the amount. The treasurer may receive money only through this procedure except as provided by Subsection (c).

(c) In a county with more than 2.2 million inhabitants, the county clerk is relieved of all duties under Subsections (a) and (b). In any other county that has the office of county auditor, the commissioners court by order may relieve the county clerk of all duties under Subsections (a) and (b). If the county clerk is relieved of duties, the county treasurer shall receive all deposits that are made in the county treasury. The county treasurer shall provide the county auditor with duplicate warrants or a written report of all warrants that contains detailed information about each warrant. On the request of a person making a deposit, the county treasurer may provide a duplicate warrant to the person. The county auditor shall prescribe a system, not inconsistent with this subsection, to be used by the county treasurer for receiving and depositing money.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 50, eff. Sept. 1, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 934 (H.B. 3439), Sec. 2, eff. September 1, 2007.

Sec. 113.024. DEPOSIT OF MONEY DOES NOT AFFECT OWNERSHIP. The deposit of money in a county treasury does not change the ownership of the money, except to indemnify the officer and the officer's surety, or any other owner of the money, during the period of deposit with the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. DISBURSEMENT OF MONEY

Sec. 113.041. DISBURSEMENT OF MONEY BY COUNTY TREASURER; PAYMENT BY CHECK OR ELECTRONIC TRANSMISSION; LOST OR DESTROYED INSTRUMENT. (a) The county treasurer shall disburse the money belonging to the county and shall pay and apply the money as required by law and as the commissioners court may require or direct, not inconsistent with law.

(b) Except as provided by Chapter 156, a person may not spend or withdraw money from the county treasury except by a check or order for payment drawn on the county treasury, whether or not the money is in a county depository as required by law.

(c) The county treasurer may not disburse money out of the county treasury without an order for payment from an officer who is authorized by law to issue the order.

(d) If the county treasurer doubts the legality or propriety of an order presented to the treasurer for payment, the treasurer may not make the payment. The treasurer shall report the matter to the commissioners court for the court's consideration and direction. The treasurer may require that the claim supporting the order be made available and verified by an affidavit after the claim is approved for payment by the commissioners court.

(d-1) In a county without a county auditor, the county treasurer may not make a payment if the treasurer has reason to believe that the check or order for payment is not valid as a proper and budgeted item of expenditure. The treasurer shall report the matter to the commissioners court for consideration and direction.

(e) If the county treasurer is satisfied that an original check or other order drawn on the county treasury by a proper authority is lost or destroyed, the treasurer may issue a duplicate instrument in place of the original. The treasurer may not issue a duplicate until an applicant has filed an affidavit with the treasurer that states that the applicant is the true owner of the original instrument and that, to the best knowledge and belief of the applicant, the original is lost or destroyed.

(f) The treasurer may require an applicant for a duplicate instrument to execute a bond with two or more good and sufficient sureties in an amount that is double the amount of the claim. The bond must be:

(1) notarized;

(2) made payable to the county judge;

(3) conditioned that the applicant will hold the county harmless;

(4) conditioned that the applicant will return to the treasurer on demand by the treasurer the duplicate instrument or the amount of money named in the duplicate, including any costs that accrue against the county in collecting the amount; and

(5) approved by the treasurer.

(g) If, after issuance of the duplicate instrument, the county treasurer determines that the duplicate was issued improperly or that the applicant or person to whom the duplicate was issued is not the owner of the original instrument, the treasurer shall immediately stop payment or demand the return of the amount paid by the county, if the duplicate is paid. If the person fails to return the amount of the instrument, the treasurer shall institute a suit for recovery through the office of the county or district attorney. Venue for the suit lies in the county in which the treasurer serves.

(h) A county treasurer may not honor a check or order for payment on the interest and sinking fund provided for a bond of the county or pay out or divert money in that fund except to pay the principal of or interest on the bond or invest money in securities as provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 343, Sec. 1, eff. May 29, 1993; Acts 1999, 76th Leg., ch. 227, Sec. 8, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 9, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 10, eff. September 1, 2011.

Sec. 113.042. ENDORSEMENT BY COUNTY TREASURER; OTHER REQUIREMENTS FOR ORDER FOR PAYMENT. (a) On the presentation of an order for payment, check, or voucher drawn by a proper authority, and if there are sufficient funds for payment on deposit in the account against which the instrument is drawn, the county treasurer shall endorse on the face of the instrument the order to pay the named payee and shall charge the amount in the treasurer's records to the fund on which it is drawn.

(b) The county treasurer may not issue and the county depository may not pay a check drawn on the county depository to take up an order for payment drawn by a proper authority, but the county treasurer shall, on the presentation of the order, endorse the order and deliver it to the payee, who may present it to the county depository for payment.

(c) The treasurer may not endorse an instrument designated as a time deposit until after the notice and time requirements in the depository contract that designates the funds as time deposits are met.

(d) If a bond, coupon, or other instrument is payable on its own terms at any place other than the county treasury, this section does not prevent the commissioners court from ordering the treasurer to place a sufficient sum at the location where the instrument is payable at the time and place of its maturity, as long as the payment is made in the manner prescribed by law.

(e) Each check or order for payment issued or drawn by an officer under the provisions of this section is subject to all laws and rules relating to auditing and countersigning.

(f) Each order for payment or scrip issued against the county treasurer by a judge or court must be signed and attested by the clerk or judge of the court under that officer's official seal.

(g) A justice of the peace may not issue an order for payment against the county treasury for any purpose except as may be provided by the Code of Criminal Procedure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 11, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 12, eff. September 1, 2011.

Sec. 113.043. COUNTERSIGNATURE BY COUNTY AUDITOR. In a county with a county auditor, the county treasurer and the county depository may not pay a check or order for payment unless it is countersigned by the county auditor to validate it as a proper and budgeted item of expenditure. This section does not apply to a check or order for jury service or for restitution collected on behalf of an individual

as authorized by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 13, eff. September 1, 2011.

Sec. 113.045. COMPARISON OF VOUCHERS AND REPORTS; TREASURER TO BE CREDITED. The county treasurer shall present to the commissioners court the vouchers relating to and accompanying each financial report for comparison with the report. All proper vouchers shall be allowed and the treasurer shall be credited with the amount of the vouchers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 113.046. REGISTER OF ORDERS FOR PAYMENT ISSUED BY JUDGE OR CLERK. (a) The county auditor shall maintain a register of the orders for payment issued on the county treasurer by a judge or by the district or county clerk. A register entry for an order must indicate the date of payment by the treasurer.

(b) On a form prepared by the auditor, the clerk or judge shall furnish the auditor with a daily itemized report that specifies the orders for payment issued, the number of orders, the amounts of the orders, the names of the persons to whom the orders are payable, and the purposes of the orders.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 14, eff. September 1, 2011.

Sec. 113.047. DISBURSEMENTS FOR SALARIES OR EXPENSES. After the deposit of funds in a county depository, an officer may draw checks on the county treasurer to disburse the funds as payment for a salary or expenses authorized by law or in payment to the county or to the person to whom the funds belong.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 330 (S.B. 354), Sec. 1, eff. May 31, 2019.

Sec. 113.048. DISBURSEMENT OF MONEY FOR JURY SERVICE. (a) Notwithstanding any other provision of this subchapter or other law to the contrary, a county treasurer may disburse to a person who reports for jury service and discharges the person's duty the daily amount of reimbursement for jury service expenses set by the commissioners court under Section 61.001, Government Code, by:

(1) using an electronic funds transfer system in accordance with Chapter 156;

(2) using a cash dispensing machine;

(3) issuing a debit card or a stored value card; or

(4) using any other method that the county treasurer and the commissioners court determine is secure, accurate, and cost-effective and that is convenient for persons who report for jury service.

(b) A system or method of payment adopted by a county treasurer under Subsection (a) may be implemented only if it is approved by the commissioners court and administered in accordance with the procedures established by the county auditor or by the chief financial officer of a county that does not have a county auditor.

(c) A system or method of payment authorized by this section may be used in lieu of or in addition to the issuance of checks or orders for payment authorized under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 734 (S.B. 397), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 15, eff. September 1, 2011.

SUBCHAPTER D. SPECIAL PROVISIONS RELATING TO CLAIMS

Sec. 113.061. CLAIMS REGISTER. (a) The county treasurer shall maintain a record in which the treasurer shall register each claim against the county. The treasurer shall register the claims in the order in which they are presented. If more than one claim is

presented at the same time, the treasurer shall register them in the order of their date.

(b) The county treasurer may not pay a claim, or any part of it, until the claim has been registered. An officer may not receive a claim, or any part of it, in payment of any indebtedness owed to the county until the claim has been registered.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 606, Sec. 31(b)(1), eff. September 1, 2011.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 606, Sec. 31(b)(1), eff. September 1, 2011.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 606, Sec. 31(b)(1), eff. September 1, 2011.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 606, Sec. 31(b)(1), eff. September 1, 2011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 16, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 31(b)(1), eff. September 1, 2011.

Sec. 113.063. CLAIMS INFORMATION LIST; INDEBTEDNESS TO THE COUNTY. (a) Each officer who collects a fine, penalty, forfeiture, judgment, tax, other indebtedness, or payment obligation owed to the county shall keep a descriptive list of those claims. When the officer reports the collection, the officer shall file with the report a list that states:

(1) the party in whose favor the claim was issued;

(2) the receipt number issued in documentation of payment;

(3) the name of the party paying in the claim;

(4) the amount received; and

(5) the purpose for which the amount was received.

(b) The officer shall give the claims and the report to the county treasurer, who shall give the officer a receipt. The treasurer shall determine the time and manner of making the report.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 17, eff.

September 1, 2011.

Sec. 113.064. APPROVAL OF CLAIMS BY COUNTY AUDITOR. (a) In a county that has the office of county auditor, each claim, bill, and account against the county must be filed in sufficient time for the auditor to examine and approve it before the meeting of the commissioners court. A claim, bill, or account may not be allowed or paid until it has been examined and approved by the auditor.

(b) The auditor shall stamp each approved claim, bill, or account. If the auditor considers it necessary, the auditor may require that a claim, bill, or account be verified by an affidavit indicating its correctness.

(c) The auditor may administer oaths for the purposes of this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 113.065. REQUIREMENT FOR APPROVAL OF CLAIM. The county auditor may not audit or approve a claim unless the claim was incurred as provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 113.901. REQUIREMENTS FOR APPROVAL OF ACCOUNTS AND REQUISITIONS. (a) Except as provided by Subsection (c), a county auditor may not audit or approve an account for the purchase of supplies or materials for the use of the county or of a county officer unless a requisition, signed by the officer ordering the supplies or materials and approved by the county judge, is attached to the account. The requisition requirement is in addition to any other requirements of law.

(b) The requisition must be made, signed, and approved in triplicate. The original must be delivered to the person from whom the purchase is to be made before the purchase is made. The duplicate copy must be filed with the county auditor. The triplicate copy must remain with the officer requesting the purchase. This subsection does not apply to a county that operates an electronic

requisition system.

(c) The commissioners court of a county that has the office of county auditor may, by a written order, waive the requirement of the county judge's approval of requisitions. The order must be recorded in the minutes of the commissioners court. If the approval of the county judge is waived, all claims must be approved by the commissioners court in open court.

(d) The commissioners court of a county may establish an electronic requisition system to perform the functions required by Subsection (a). The county auditor, subject to the approval of the commissioners court, shall establish procedures for administering the system.

(e) An electronic requisition system established under this section must be able to electronically transmit data to and receive data from the county's financial system in a manner that meets professional, regulatory, and statutory requirements and standards, including those related to purchasing, auditing, and accounting.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1197, Sec. 10, eff. June 20, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 936 (H.B. 731), Sec. 1, eff. June 18, 2005.

Sec. 113.902. PROSECUTION TO COLLECT DEBT OWED TO COUNTY; RECOVERY OF ATTORNEY'S FEES AND COSTS. (a) Except as provided by Section 140.013, the county treasurer shall direct prosecution for the recovery of any debt owed to the county, as provided by law, and shall supervise the collection of the debt.

(b) In a proceeding to recover a delinquent debt owed to the county, including a delinquent account, loan, interest payment, tax, charge, fee, fine, penalty, or claim on a judgment, the county attorney may recover reasonable attorney's fees and investigative and court costs incurred on behalf of the county. The county attorney may recover the fees and costs in the same manner as provided by law for a private litigant.

(c) This section does not apply to the recovery of a delinquent ad valorem tax owed to the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 2003, 78th Leg., ch. 145, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 585 (S.B. 790), Sec. 1, eff. September 1, 2021.

Sec. 113.903. COLLECTION MADE BY ONE OFFICER ON BEHALF OF ANOTHER. (a) With the prior consent of the commissioners court and the officer to whom funds are owed, a district, county, or precinct officer authorized by law to receive or collect money or other property that belongs to the county may receive or collect, on behalf of another district, county, or precinct officer, money or property owed to the county.

(b) If the officer collects money under this section, the officer shall deposit the money in accordance with Section 113.022.

(c) When the officer reports or deposits the collection, the officer shall file with the report or deposit a statement of:

(1) the name of the party paying the money;

(2) the amount received;

(3) the purpose for which the amount was received; and

(4) the officer on whose behalf the money was collected.

(d) The county auditor, or county clerk if there is no county auditor, and the county treasurer shall attribute money or property received or collected under this section to the account of the officer on whose behalf it is received or collected.

(e) A person who accepts a payment under the terms of this section shall issue a receipt for any money received to the payer of the debt.

Added by Acts 1989, 71st Leg., ch. 58, Sec. 1, eff. Aug. 28, 1989.

CHAPTER 114. COUNTY FINANCIAL REPORTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 114.001. GENERAL REQUIREMENTS APPLICABLE TO REPORTS. (a) Each report required under this subtitle must be made in writing and must be sworn to before an officer authorized to administer oaths by the officer making the report or by a person designated by the officer to receive fees, commissions, or costs under Section 114.041(b).

(b) A monthly report must be filed within five days after the last day of each month.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 231 (S.B. 1554), Sec. 1, eff. May 27, 2009.

Sec. 114.002. COUNTY AUDITOR'S AUTHORITY TO DETERMINE TIME AND MANNER OF REPORTS MADE TO AUDITOR. The county auditor shall determine:

(1) the time and manner for making reports to the auditor; and

(2) the manner for making an annual report of:

(A) office fees collected and disbursed; and

(B) the amount of office fees refunded to the county in excess of those that the officer is permitted by law to keep.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 114.003. PENALTY FOR FAILURE TO FURNISH COUNTY AUDITOR WITH REPORT; REMOVAL. (a) A county official or other person who is required under this subtitle to provide a report, statement, or other information to the county auditor and who intentionally refuses to comply with a reasonable request of the county auditor relating to the report, statement, or information, commits an offense.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $25 or more than $200;

(2) removal from office; or

(3) both a fine and removal from office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. REPORTS ABOUT GENERAL FINANCIAL CONDITION OF COUNTY

Sec. 114.021. COUNTY TREASURER'S TABULAR STATEMENT TO COMMISSIONERS COURT AT REGULAR TERM. (a) In a county that does not have the office of county auditor, the county treasurer shall present

a tabular statement at each regular term of the commissioners court. The treasurer shall present the statement during the second day of the court's term.

(b) In the statement, the treasurer shall report on the condition of the county finances for the three-month period preceding the month in which the court meets in regular session. In the statement, the treasurer shall specify:

(1) the names of the creditors of the county;

(2) each item of county indebtedness with its respective date of accrual;

(3) the name of each person to whom money has been paid and the amount paid; and

(4) the name of each person from whom money has been received, the date of the receipt, and the name of the account for which it is received.

(c) The treasurer shall list separately the amount to the credit or debit of each fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 207 (H.B. 398), Sec. 1, eff. May 25, 2007.

Sec. 114.022. COUNTY ANNUAL FINANCIAL EXHIBIT. (a) The county auditor or, in a county that does not have a county auditor, the county treasurer immediately after the first regular term of the commissioners court in the year shall publish an exhibit that shows the aggregate amount paid from each fund for the four preceding quarters and the balance to the debit or credit of each fund. The exhibit must also list:

(1) the amount of the county indebtedness;

(2) the respective dates of accrual of that indebtedness;

(3) to whom the debt is owed;

(4) the reason for the debt; and

(5) the amount to the debit or credit of each officer or other person with whom an account is kept in the county finance records.

(b) The county official designated by Subsection (a) shall publish the exhibit once in a weekly newspaper that is published in

the county. The commissioners court shall order the payment of the publication costs from the general fund of the county. If no paper is published in the county, the county official shall post a copy of the exhibit in each commissioner's precinct. One must be posted at the courthouse door, and one must be posted at public places in each of the other three commissioners' precincts.

(c) A county publishing monthly financial reports under Section 114.023 that publishes its comprehensive annual financial report on its Internet website is not required to publish an exhibit under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 207 (H.B. 398), Sec. 2, eff. May 25, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 18, eff. September 1, 2011.

Sec. 114.023. COUNTY AUDITOR'S MONTHLY REPORT TO COMMISSIONERS COURT IN COUNTY WITH POPULATION OF MORE THAN 225,000. (a) In a county with a population of more than 225,000, the county auditor shall report to the commissioners court at least monthly on the financial condition of the county. The auditor shall prescribe the form of the report.

(b) In addition to information considered necessary by the auditor or required by the commissioners court, the report must contain:

(1) all of the facts of interest related to the financial condition of the county;

(2) a consolidated balance sheet;

(3) a complete statement of the balances on hand at the beginning and end of the month;

(4) a statement of the aggregate receipts and disbursements of each fund;

(5) a statement of transfers to and from each fund;

(6) a statement of the bond and order for payment indebtedness with corresponding rates of interest; and

(7) a summarized budget statement that shows:

(A) the expenses paid from the budget for each budgeted

officer, department, or institution during that month and for the period of the fiscal year inclusive of the month for which the report is made;

(B) the encumbrances against the budgets; and

(C) the amounts available for further expenditures.

(c) The county auditor shall publish a condensed copy of the report showing the condition of funds and budgets and a statement of the auditor's recommendations. The publication must be made once in a daily paper published in the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 19, eff. September 1, 2011.

Sec. 114.024. COUNTY AUDITOR'S REPORT TO COMMISSIONERS COURT AT REGULAR MEETING. At each regular meeting of the commissioners court, the county auditor shall present a tabulated report of:

(1) the county's receipts and disbursements of funds; and

(2) the accounts of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 114.025. COUNTY AUDITOR'S MONTHLY AND ANNUAL REPORTS TO COMMISSIONERS COURT AND DISTRICT JUDGES. (a) The county auditor shall make monthly and annual reports to the commissioners court and to the district judges of the county. Each report must show:

(1) the aggregate amounts received and disbursed from each county fund;

(2) the condition of each account on the books;

(3) the amount of county, district, and school funds on deposit in the county depository;

(4) the amount of county bonded indebtedness and other indebtedness; and

(5) any other fact of interest, information, or suggestion that the auditor considers proper or that the court or district judges require.

(b) The annual report must include a record of all transactions made during a calendar year. The auditor shall file the annual

report at a regular or special term of the commissioners court held during the month of April of the following year. The auditor shall file a copy of the report with the district judges of the county.

(c) At the time the annual audit is delivered to the commissioners court and the district judges, the auditor shall send to the bonding company of each district, county, and precinct officer a report indicating the condition of that person's office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 114.026. COUNTY TREASURER'S REPORT TO COMMISSIONERS COURT AT REGULAR TERM. (a) At least once a month at a regular term of the commissioners court, the county treasurer shall make a detailed report of:

(1) money received and disbursed;

(2) debts due to and owed by the county; and

(3) all other proceedings in the treasurer's office.

(b) At least once a month at a regular term of the commissioners court, the county treasurer shall exhibit the books and accounts of the treasurer's office for the inspection of the court and shall submit the vouchers relating to the books and accounts for audit and approval.

(c) After the commissioners court has compared and examined the treasurer's report and has determined that the report is correct, the court shall enter an order in its minutes approving the report. The order must separately state the amount received and paid from each fund since the county treasurer's preceding report and any balance remaining in the treasurer's custody. The court shall properly credit the treasurer's accounts.

(d) Before the adjournment of a regular term of the commissioners court, the county judge and each county commissioner shall give an affidavit stating that the requirements of Subsection (c) have been met at that term. The affidavit must state the amount of the cash and other assets that are in the custody of the county treasurer at the time of the examination. The affidavits must be filed with the county clerk and must be recorded in the minutes of the court for the term in which the affidavits are filed. The affidavits must be published once in a newspaper published in the county if there is such a newspaper or, if the county has an Internet

website, on the county's website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 934 (H.B. 3439), Sec. 4, eff. September 1, 2007.

SUBCHAPTER C. REPORTS ABOUT MONEY COLLECTED OR RECEIVED

Sec. 114.041. STATEMENT OF FEES, COMMISSIONS, AND OTHER MONEY RECEIVED BY OFFICERS. (a) In a county with a population of 190,000 or less, a district, county, or precinct officer shall keep, as part of a record provided for the purpose, a statement of the fees earned by the officer and of the money received by the officer as deposits for costs, trust fund deposits in the registry of a court, fees of office, and commissions. The officer must make an entry in the record when the fees or commissions are earned or the deposits are made and when the money is received. The county auditor or, if the county does not have a county auditor, the commissioners court shall annually examine the records and accounts of each officer and report the findings of the examination to the next grand jury or district court.

(b) In a county with a population of more than 190,000, a district, county, or precinct officer shall keep, as part of a record provided for the purpose by the proper county authorities, a statement of the amounts earned by the officer and of the money received by the officer as fees, commissions, or costs. The officer may designate a person to receive the money as fees, commissions, or costs on behalf of the officer under this subsection. The officer or a person designated by the officer to receive the fees, commissions, or costs must make an entry in the record when the fees, commissions, or costs are earned and when they are received.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 231 (S.B. 1554), Sec. 2, eff. May 27, 2009.

Sec. 114.043. PERIODIC REPORT TO COUNTY AUDITOR BY OFFICER WHO HAS CUSTODY OF MONEY IN COUNTY WITH POPULATION OF 190,000 OR MORE.

In a county with a population of 190,000 or more, the county auditor may require a district clerk, district attorney, county officer, or precinct officer to furnish monthly reports, annual reports, or other reports regarding any money, tax, or fee received, disbursed, or remaining on hand. In connection with those reports, the auditor may count the cash in the custody of the officer or verify the amount on deposit in the bank in which the officer has deposited the cash for safekeeping.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 114.044. REPORT TO COMMISSIONERS COURT AT REGULAR TERM BY OFFICER WHO COLLECTS FINES, JUDGMENTS, OR JURY FEES. (a) Each district clerk, county clerk, county judge, county treasurer, sheriff, district attorney, county attorney, constable, or justice of the peace who collects or handles any money for the use of the county shall make a full report at least once a month at a regular term to the commissioners court on all fines imposed and collected, all judgments rendered and collected for the use of the county, and all jury fees collected by the respective courts in favor of or for the use of the county and, at the time of the report, shall present the receipts and vouchers that show the disposition of the money, fines, or judgments.

(b) Each report must fully state:

(1) the name of the person fined and the amount of the fine or the name of the person against whom judgment was rendered and the amount of the judgment;

(2) the style, number, and date of each case in which a fine was imposed or a judgment rendered; or

(3) the amount of the jury fees collected, the style and number of the case in which each jury fee was collected, and the name of the person from whom the fee was collected.

(c) The court shall carefully examine the reports, receipts, and vouchers. If the court finds them to be correct, the court shall direct the county clerk to enter the information in the county finance records. If they are found to be incorrect, the court shall summon before the court the officer making the report and shall have corrections made. The reports, receipts, and vouchers shall be filed in the county clerk's office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 934 (H.B. 3439), Sec. 5, eff. September 1, 2007.

Sec. 114.046. ANNUAL REPORT TO DISTRICT CLERK BY OFFICER ON FEE BASIS WHO COLLECTS FEES OR COMMISSIONS; REMOVAL. (a) If a county officer is compensated on a fee basis, the officer shall file an annual report in triplicate with the district court of the county. The report must be filed on or before the first day of the second month of the fiscal year, must be on a form prescribed by the comptroller, and must show:

(1) the amount of the fees, commissions, and compensation that the officer earned during the preceding fiscal year;

(2) the amount of the fees, commissions, and compensation that the officer collected during that year; and

(3) an itemized statement of the fees, commissions, and compensation that the officer earned but did not collect during that year, with the name of the party owing each item.

(b) Within 30 days after the date on which the officer files the report, the clerk of the district court shall forward a copy of the report to the comptroller and the county auditor. If the county does not have a county auditor, the clerk shall forward a copy of the report to the commissioners court.

(c) A county tax assessor-collector who files the report with the district clerk shall also file a copy of the report with the comptroller of public accounts at the time of settlement with the comptroller.

(d) An officer who fails to file the report in the time prescribed by Subsection (a) is liable for a penalty of $25 for each day after the deadline that the report remains unfiled and is subject to removal from office. The county may recover the penalty in a suit brought for that purpose.

(e) An officer shall make a final settlement before the deadline for filing the report. An officer who serves only part of the fiscal year shall file the report and make a final settlement for the part of the year that the officer served, and the officer is entitled to the part of the officer's compensation proportionate to the part of the year served.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 102, eff. Sept. 1, 1989.

SUBCHAPTER D. MISCELLANEOUS REPORTS

Sec. 114.061. COUNTY TREASURER'S MONTHLY CLAIMS REPORT TO COUNTY CLERK. (a) At the end of each month, the county treasurer shall file in the office of the county clerk a claims report that shows the total amount of claims registered by the county treasurer during the month. The treasurer shall report each class of claims separately.

(b) The county clerk shall enter the claims report in the county finance ledger under the heading of "Registered indebtedness of the county." The clerk shall keep a separate account of each class of indebtedness.

(c) From the reports made by the treasurer of disbursements, the clerk shall credit the accounts with the total amount of vouchers of each class of claims paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. COUNTY FINANCIAL DATA ADVISORY COMMITTEE

Sec. 114.081. DEFINITIONS. In this subchapter:

(1) "Committee" means the Texas County Financial Data Advisory Committee.

(2) "Comptroller" means the comptroller of public accounts.

Added by Acts 2001, 77th Leg., ch. 676, Sec. 3, eff. Sept. 1, 2001.

Sec. 114.082. COUNTY FINANCIAL DATA ADVISORY COMMITTEE; DUTIES. (a) The Texas County Financial Data Advisory Committee is established to study county financial reporting requirements and systems and make recommendations to the comptroller and the legislature on ways in which the collection and use of county financial data can be improved without resulting in additional costs to counties. The comptroller may implement the recommendations of the committee for the reporting of financial data and other pertinent information to the state.

(b) The recommendations shall address the following issues as

they relate to county financial reporting requirements:

(1) uniformity;

(2) duplicative reporting requirements;

(3) the Government Accounting Standards Board's most recent reporting standards;

(4) electronic filing; and

(5) costs associated with meeting the requirements.

(c) The committee shall develop and recommend:

(1) a consolidated uniform financial reporting procedure that does not impose a greater reporting burden on counties than current practices; and

(2) a voluntary uniform chart of accounts for counties.

Added by Acts 2001, 77th Leg., ch. 676, Sec. 3, eff. Sept. 1, 2001.

Sec. 114.083. MEMBERSHIP; OFFICERS. (a) The committee consists of the following members:

(1) one county judge or commissioner appointed by the Texas Conference of Urban Counties;

(2) one county judge or commissioner appointed by the County Judges and Commissioners Association of Texas;

(3) two county auditors appointed by the Texas Association of County Auditors;

(4) two county treasurers appointed by the Texas Association of County Treasurers;

(5) one county official, other than a county judge, commissioner, auditor, or treasurer, appointed by the executive director of the Texas Association of Counties;

(6) one county budget officer appointed by the Texas Conference of Urban Counties;

(7) the comptroller or the comptroller's designee;

(8) the executive director of the Texas Conference of Urban Counties or the executive director's designee;

(9) the executive director of the Texas Association of Counties or the executive director's designee;

(10) the general counsel of the County Judges and Commissioners Association of Texas or the general counsel's designee; and

(11) any nonvoting members the other committee members

consider appropriate.

(b) The committee shall elect, by simple majority, a presiding officer from among the committee members. The presiding officer serves in that capacity for a period not to exceed two years.

(c) Appointed members of the committee serve at the pleasure of the appointing authority. If a member of the committee holds a public office, service on the committee is an additional duty of that office.

Added by Acts 2001, 77th Leg., ch. 676, Sec. 3, eff. Sept. 1, 2001.

Sec. 114.084. MEETINGS. The committee shall meet quarterly on dates determined by the presiding officer and may hold other meetings at the call of the presiding officer.

Added by Acts 2001, 77th Leg., ch. 676, Sec. 3, eff. Sept. 1, 2001.

Sec. 114.085. PERSONNEL AND SUPPORT. (a) The comptroller, the Texas Association of Counties, and the Texas Conference of Urban Counties shall provide by agreement for the staff and other resources necessary for the operations of the committee.

(b) The committee may accept a gift, grant, or donation from any person.

(c) A member of the committee may not receive compensation but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the committee, as provided in the General Appropriations Act.

Added by Acts 2001, 77th Leg., ch. 676, Sec. 3, eff. Sept. 1, 2001.

CHAPTER 115. AUDIT OF COUNTY FINANCES

SUBCHAPTER A. AUDIT AUTHORITY OF COUNTY AUDITOR

Sec. 115.001. EXAMINATION OF RECORDS. The county auditor shall have continual access to and shall examine and investigate the correctness of:

(1) the books, accounts, reports, vouchers, and other records of any officer;

(2) the orders of the commissioners court relating to

county finances; and

(3) the vouchers given by the trustees of all common school districts of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 115.002. EXAMINATION OF BOOKS AND REPORTS. (a) The county auditor shall carefully examine and report on all reports that are about the collection of money for the county and that are required to be made to the commissioners court.

(b) At least once each quarter, the county auditor shall check the books and shall examine in detail the reports of the county tax assessor-collector, the county treasurer, and all other officers. The auditor shall verify the footings and the correctness of those books and reports. The auditor shall either stamp the books and reports approved or shall note any differences, errors, or discrepancies.

(c) The auditor shall carefully examine the report made under Section 114.026 by the county treasurer, together with the canceled orders for payment that have been paid. The auditor shall verify those orders with the register of orders issued as shown on the auditor's books.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 20, eff. September 1, 2011.

Sec. 115.003. EXAMINATION OF FUNDS HELD BY COUNTY TREASURER. (a) At least once each quarter, or more often if the county auditor desires, the auditor shall, without advance notice, fully examine the condition of, or shall inspect and count, the cash held by the county treasurer or held in a bank in which the treasurer has placed the cash for safekeeping.

(b) The auditor shall make sure that all balances to the credit of the various funds are actually on hand in cash and that none of the funds are invested in any manner except as authorized by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 115.0035. EXAMINATION OF FUNDS COLLECTED BY COUNTY ENTITY OR THE DISTRICT ATTORNEY. (a) For purposes of this section, "accounts" means all public funds that are subject to the control of any precinct, county or district official, including the accounts of law enforcement agencies and the attorney for the state composed of money and proceeds of property seized and forfeited to those officials.

(b) At least once each county fiscal year, or more often if the county auditor desires, the auditor shall, without advance notice, fully examine the accounts of all precinct, county and district officials.

(c) The auditor shall verify the correctness of the accounts and report the findings of the examination to the commissioners court of the county at its next term beginning after the date the audit is completed.

(d) This section does not apply to funds received by the attorney for the state from the comptroller of public accounts pursuant to the General Appropriations Act, or to federal or state grant-in-aid funds received by precinct, county or district officials.

Added by Acts 1989, 71st Leg., ch. 1007, Sec. 1, eff. Sept. 1, 1989.

Sec. 115.0036. EXAMINATION AND AUDIT OF RECORDS OF CERTAIN SPECIAL DISTRICTS. (a) The county auditor shall have continual access to and may, at the county auditor's discretion, examine the books, accounts, reports, vouchers, and any other records of:

(1) a special district if the district's budget requires the approval of the commissioners court; and

(2) any subsidiary of a special district described by Subdivision (1) that is supported wholly or partly by public funds.

(b) The county auditor, with the approval of the commissioners court, may audit the books, accounts, reports, vouchers, and any other records of an entity described by Subsection (a) if the county auditor determines an audit is necessary after conducting an examination under Subsection (a).

Added by Acts 2015, 84th Leg., R.S., Ch. 1207 (S.B. 1510), Sec. 1,

eff. September 1, 2015.

Sec. 115.004. AUDIT IN COUNTY WITH POPULATION OF 190,000 OR MORE. (a) This section applies only to a county with a population of 190,000 or more.

(b) At the end of the fiscal year or the accounting period fixed by law, the county auditor shall audit, adjust, and settle the accounts of the district attorney, the district clerk, and each county or precinct officer.

(c) If the county auditor is unable to obtain proper reports or an adequate accounting from any of those persons, either during or after the person's term of office, the auditor may require an accounting and may proceed at the county's expense as the auditor considers necessary to protect the interest of the county or of the person entitled to any funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. AUDIT AUTHORITY OF COMMISSIONERS COURT

Sec. 115.021. AUDIT AND SETTLEMENT OF ACCOUNTS. The commissioners court of a county shall audit and settle all accounts against the county and shall direct the payment of those accounts.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 115.022. EXAMINATION OF ACCOUNTS AND REPORTS; SETTLEMENT. (a) At each regular term, the commissioners court shall examine all accounts and reports that relate to the county finances and shall compare the accounts and reports with the accompanying vouchers. The court shall see that any errors in the accounts and reports are corrected.

(b) The court shall see that all orders made by the court that relate to the accounts and reports are entered in the minutes of the court and that the orders are noted on the accounts and reports.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. INDEPENDENT AUDIT AUTHORITY GENERALLY APPLICABLE

Sec. 115.031. AUDIT BY ACCOUNTANT. (a) If considered by the commissioners court of a county to be justified by an imperative public necessity, the court may employ a disinterested, competent, and expert public accountant to audit all or part of the books, records, or accounts of:

(1) the county;

(2) a district, county, or precinct officer, agent, or employee, including the county auditor;

(3) a governmental unit of the county; or

(4) a hospital, farm, or other county institution maintained at public expense.

(b) The commissioners court may also employ the accountant to deal with any other matter relating to or affecting the fiscal affairs of the county.

(c) The resolution providing for the audit must state the reasons for the audit, such as a determination by the commissioners court:

(1) of official misconduct, intentional omission, or negligence in records or reports;

(2) of a misapplication, conversion, or retention of public funds; or

(3) of a failure to keep accounts, make reports, or account for public funds by any officer, agent, or employee of the district, the county, or a precinct, including the officer, agent, or employee of a depository, hospital, or other public institution maintained for the public benefit at the public expense.

(d) The reason stated in the audit resolution may also be a statement by the commissioners court that it considers the audit necessary for the court to determine and fix the proper appropriation and expenditure of public money or to determine and fix a proper tax levy.

(e) The commissioners court may present the audit resolution in writing at any regular or called session of the commissioners court, but it shall lie over to the next regular term of the court.

(f) The commissioners court shall publish the resolution once in a newspaper of general circulation published in the county. If there is no newspaper of general circulation published in the county, the court shall post notice of the resolution at the courthouse door and two other public places in the county for at least the 10 days

preceding the date the resolution is adopted.

(g) To be implemented, the resolution must be adopted by a majority vote of the four county commissioners and must be approved by the county judge at that next regular term of the commissioners court.

(h) A contract entered into by the commissioners court for the audit shall be made in accordance with statutes applicable to the making of contracts by the commissioners court. Payment under the contract may be made from county funds in accordance with those statutes.

(i) In addition to the emergency powers under this section, the commissioners court may provide for an independent audit of the accounts and officials if the court, by an order properly entered at any regular term, determines that the audit would best serve the public interest. A contract for that audit is subject to the requirements of Subsection (h).

(j) The authority given to county auditors under this subtitle, as well as other provisions of statutes relating to district, county, and precinct finances and accounts, is subordinate to the powers of the commissioners court under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 115.032. SPECIAL AUDIT AFTER VOTER PETITION. (a) If a number of qualified voters residing in a county equal to at least 30 percent of the voters who voted in the county in the most recent general gubernatorial election file a petition for an audit with a district judge who has jurisdiction in the county, there shall be a special audit of all county records.

(b) On the receipt of the petition, the district judge shall determine its validity. If the judge determines that the petition meets the requirements of Subsection (a), the judge shall immediately employ a person to prepare a special audit of all county records. The special auditor must have the qualifications prescribed by law for county auditors. The special auditor is entitled to receive as compensation for the services rendered a reasonable fee fixed by the district judge and to be paid out of the general fund or officers' salary fund of the county.

(c) After the preparation of the audit, it shall be filed with

the district judge.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 103, eff. Sept. 1, 1989.

Sec. 115.033. AUDIT BY FINANCE COMMITTEE. (a) On the request of the grand jury, at any term of the district court the district judge may appoint a finance committee to examine the financial condition of the county. The committee must be composed of three persons who are citizens of the county, are of good moral character and intelligence, and are experienced accountants.

(b) The committee shall examine all of the books, accounts, reports, vouchers, and orders of the commissioners court relating to county finances that have not been examined and reported on by a previous committee.

(c) The committee shall count all the money in the office of the county treasurer that belongs to the county and shall make any other examination that it considers necessary and proper to determine the true condition of the county finances.

(d) If necessary, and on the application of the committee, the district court shall send for persons and evidence to help in the investigation.

(e) On the earliest practicable day after its appointment, the committee shall make a detailed written report to the district court. The report must state whether the books and records required by law are correctly kept. The report must fully set out the financial condition of the county and the state of each officer's account and must specify any irregularity, omission, or wrongdoing that the committee discovers.

(f) The committee shall sign and swear to the report and file it in the office of the district clerk. The attention of the grand jury shall be called to the report as soon as practicable after the filing.

(g) Each member of the committee is entitled to receive compensation for services performed under this section at a rate of $3 a day. The compensation shall be paid for a period not to exceed five days and shall be paid from the county treasury on the certificate of the district judge that states the number of days the member has served.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. INDEPENDENT AUDIT AUTHORITY OF SPECIFIC COUNTIES

Sec. 115.041. INDEPENDENT AUDIT IN COUNTY WITHOUT OFFICE OF COUNTY AUDITOR. At least once every two years, the commissioners court of a county that does not have the office of county auditor shall have conducted an independent audit of the books, records, and accounts of each of the county officers, agents, and employees and of any other matter that relates to the county's fiscal affairs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 115.042. AUDIT IN COUNTIES WITH POPULATION LESS THAN 25,000. (a) The commissioners court of a county with a population of less than 25,000 may arrange with one or more other counties to jointly employ and compensate one or more special auditors for the purposes set forth in Section 115.031.

(b) The commissioners court of a county affected by this section may have an audit made of the county books, either in whole or in part, at any time regardless of whether an arrangement can be made under Subsection (a). The district judge or the grand jury of the county may also order such an audit.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 115.043. AUDIT BY ACCOUNTANT IN COUNTIES WITH POPULATION OF 40,000 TO 100,000. (a) This section applies to a county with a population of 40,000 to 100,000.

(b) On request by the grand jury, at any term of the district court the district judge of the county shall appoint an auditor to examine the condition of the county finances. The auditor must be of good moral character and intelligence and must be an experienced accountant.

(c) The auditor shall examine all of the books, accounts, reports, vouchers, and orders of the commissioners court that relate to the county finances, or a part of those items, as ordered and directed by the district judge. The auditor shall count all the money in the office of the county treasurer that belongs to the

county and shall make any other examination that the auditor considers necessary and proper to determine the true condition of the county finances or that is ordered by the district judge.

(d) If necessary, and on the application of the auditor, the district court shall summon witnesses, compel their attendance, and require them to give testimony. The district judge shall require the production of all books, records, and other evidence requested or desired by the auditor to conduct the investigation. The district judge may punish for contempt a person who violates an order of the judge or a process issued under this section.

(e) The auditor shall make a detailed written report to the district court at the earliest practicable date after appointment. The report must state:

(1) the true condition of the county finances;

(2) whether the books and records required to be kept by law are correctly maintained; and

(3) the condition of each officer's account that is included within the scope and provisions of the judge's order.

(f) The auditor shall specify in the report each irregularity, omission, and wrongdoing discovered. The auditor shall sign and swear to the report and file it in the office of the district clerk. The report must be brought to the attention of the grand jury as soon as is practicable after the filing.

(g) The auditor is entitled to receive compensation for duties performed under this section at a rate not to exceed $25 a day. The compensation shall be paid for the period that is reasonably required to perform those duties and shall be paid from the county treasury on the certificate of the district judge that states the number of days the auditor has served and the total amount due.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 115.044. BIENNIAL INDEPENDENT AUDIT IN CERTAIN COUNTIES. (a) A county with a population of 372,000 to 410,000 shall conduct a biennial independent audit of all books, records, and accounts of each district, county, and precinct officer, agent, or employee, including those of the regular county auditor, and of all governmental units of the county hospitals, farms, and other institutions. The audit must cover all matters relating to the

fiscal affairs of the county. The audit shall be conducted in each even-numbered year and must be completed before December 31 of the year.

(b) The commissioners court of the county shall employ a disinterested, competent, experienced public accountant or certified public accountant to perform the audit. The court shall enter a contract for the audit at the first regular meeting of the court in January of each even-numbered year. The consideration specified in the contract shall be paid from the general fund of the county.

(c) This section does not prevent a county from conducting an annual independent audit of the records covered by this section. If a county conducts annual independent audits and completes the audits before December 31 of each year, those audits constitute compliance with the requirements of this section.

(d) The audit required under this section is in addition to any special audit prepared under Subchapter C or to any regular or special audit report prepared by the regular county auditor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 87, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 51, 52, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 68, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 129, eff. September 1, 2023.

Sec. 115.045. ANNUAL INDEPENDENT AUDIT IN COUNTIES WITH POPULATION OF 350,000 OR MORE. (a) A county with a population of 350,000 or more shall conduct an annual independent audit of all books, records, and accounts of each district, county, and precinct officer, agent, or employee, including the regular county auditor, and of all governmental units of the county hospitals, farms, and other institutions. The audit shall cover all matters relating to the fiscal affairs of the county.

(b) The commissioners court of the county shall employ a disinterested, competent, experienced public accountant or certified public accountant to perform the audit. The court shall contract for the audit at the regular January meeting of the court. The

consideration specified in the contract shall be paid from the general fund of the county.

(c) The audit required under this section is in addition to any special audit prepared under Subchapter C or to any regular or special audit report prepared by the regular county auditor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 115.901. EXAMINATION OF CERTAIN RECORDS BY COUNTY AUDITOR OR COUNTY TREASURER. (a) The county auditor or, in a county that does not have the office of county auditor, the county treasurer, shall examine the accounts, dockets, and records of each clerk, justice of the peace, and constable and of the sheriff and county tax assessor-collector to determine if any money belonging to the county and in the possession of the officer has not been accounted for and paid over according to law.

(b) If the auditor or treasurer finds that such money does exist, the auditor or treasurer shall report the findings of the examination to the commissioners court of the county at its next term for the purpose of instituting a suit for the recovery of the money.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 979, Sec. 1, eff. Aug. 28, 1989.

CHAPTER 116. DEPOSITORIES FOR COUNTY PUBLIC FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 116.001. DEFINITIONS. In this chapter:

(1) "Bank" means a:

(A) bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state; or

(B) savings and loan association or savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state.

(2) "Demand deposit" means a deposit of funds that may be withdrawn on the demand of the depositor.

(3) "Time deposit" means a deposit of funds subject to a contract between the depositor and the depository under which the

depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds.

(4) "Subdepository bank" means an authorized bank, other than a depository, that holds demand deposits, not exceeding the Federal Deposit Insurance Corporation's limit, of a district, county, or precinct officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 527, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 234, Sec. 4, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 344, Sec. 5.009, eff. Sept. 1, 1999.

Sec. 116.002. MONEY AFFECTED. (a) This chapter applies to money collected or held by a district, county, or precinct officer in a county and by the officers of a defined district or subdivision in the county, including the funds of a municipal or quasi-municipal subdivision or corporation that has the power to select its own depository but has not done so. The money shall be deposited under this chapter, and the money shall be considered in fixing, and is protected by, a county depository's bond.

(b) Orders for payment, checks, and vouchers evidencing the money deposited in the county depository under Subsection (a) are subject to audit and countersignature as provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 21, eff. September 1, 2011.

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 116.021. DEPOSITORY AND SUBDEPOSITORY CONTRACTS. (a) The commissioners court of a county shall select by the process provided by this subchapter or by Subchapter C, Chapter 262, one or more banks in the county and enter a contract with each selected bank for the deposit of the county's public funds. The county shall contract with a bank under this section for a two-year or four-year contract term. On expiration of a contract under this section, the contract may be renewed for two years under terms negotiated by the commissioners

court.

(b) If the contract is for a four-year term, the contract shall allow the county to establish, on the basis of negotiations with the bank, new interest rates and financial terms of the contract that will take effect during the final two years of the four-year contract.

(c) On the renewal of a contract, the county may negotiate new interest rates and terms with the bank for the next two years in the same way and subject to the same conditions as provided by Subsection (b).

(d) If for any reason a county depository is not selected under Subsection (a), the commissioners court, at any subsequent time after 20 days' notice, may select, by the process described by Section 116.024 or by negotiated bid, one or more depositories in the same manner as at the regular time.

(e) If the commissioners court selects a depository by the process provided by Subchapter C, Chapter 262, the depository may be selected by:

(1) competitive bidding; or

(2) another method under that subchapter that the county is qualified to use.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 527, Sec. 2, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 65, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 1, eff. June 15, 2007.

Sec. 116.022. NOTICE. (a) Once each week for at least 20 days before the date to submit an application under Section 116.023(a), the county judge shall place over the judge's name in a newspaper of general circulation in the county a notice that the commissioners court intends to receive applications from which to select a depository bank. A notice shall also be posted at the courthouse door of the county.

(b) If a newspaper is not published in the county, the newspaper notice shall be placed in a newspaper published in the nearest county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 65, Sec. 2, eff. Aug. 28, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 2, eff. June 15, 2007.

Sec. 116.023. APPLICATIONS. (a) A bank in the county that wants to be a county depository must deliver its application to the county judge or a designated representative of the judge on or before a date set by the commissioners court that is no later than the 60th day before the date of the expiration of the existing depository contract.

(b) The application must state the amount of the bank's paid-up capital stock and permanent surplus, and the application must be accompanied by:

(1) a statement showing the financial condition of the bank on the date of the application; and

(2) a certified check or cashier's check for at least one-half percent of the county's revenue for the preceding year.

(c) The certified or cashier's check that accompanies an application is a good-faith guarantee on the part of the applicant that if accepted as a county depository it will execute the bond required under this chapter. If a bank is selected as a depository and does not provide the bond, the county shall retain the amount of the check as liquidated damages, and the county judge shall readvertise for applications, if necessary, to obtain a depository for the county.

(d) A bank in the county that wants to be a county subdepository must comply with Subsections (a) and (b)(1). The subdepository's application must include a proposal outlining its security for the county public funds to be held in addition to revenue offers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 628, Sec. 4, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 527, Sec. 3, eff. Sept. 1, 1991.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 3, eff. June 15, 2007.

Sec. 116.024. SELECTION OF DEPOSITORIES AND SUBDEPOSITORIES. (a) At the meeting at which banks are to be selected as county depositories, the commissioners court shall:

(1) enter in the minutes of the court all applications filed with the county judge;

(2) consider all applications; and

(3) select the qualified applicants that offer the most favorable terms and conditions for the handling of the county funds.

(b) The commissioners court may reject those applicants whose management or condition, in the opinion of the commissioners court, does not warrant placing county funds in their possession.

(c) After selecting one or more county depositories, the commissioners court shall immediately return the certified checks of the rejected applicants. The commissioners court shall return the check of a successful applicant when the applicant executes and files a depository bond that is approved by the commissioners court.

(d) The conflict of interests provisions of Section 131.903 apply to the selection of the depositories.

(e) After selecting one or more subdepositories, the commissioners court shall immediately notify each selected applicant of its selection. Within 15 days, the selected applicant must file a bond or other security as approved by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 527, Sec. 4, 5, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 268, Sec. 29, eff. Sept. 1, 1993. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 4, eff. June 15, 2007.

Sec. 116.025. DESIGNATION OF DEPOSITORY OR SUBDEPOSITORY. When security is provided in accordance with Subchapter C and is approved by the commissioners court, the commissioners court shall, by an order entered in its minutes, designate the bank as a depository or subdepository for the funds of the county. The designation is effective until the end of the 60th day after the date fixed for the next selection of a depository or subdepository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 527, Sec. 6, eff. Sept. 1, 1991.

Sec. 116.026. APPLICANTS OUTSIDE COUNTY. (a) If no bank located in the county applies to be designated as the county depository, the commissioners court may advertise, in the same manner provided by Section 116.022 for advertising for a depository within the county, for applications from banks in an adjoining county or any other county in this state.

(b) If only one bank located in the county applies to be designated as the county depository, the commissioners court may reject the applicant if the applicant proposes terms that:

(1) are not in the best interest of the county;

(2) are not financially competitive with the financial market outside the county; or

(3) impose noncompetitive fees.

(c) If the commissioners court rejects the applicant under Subsection (b), the commissioners court may advertise, in the same manner provided by Section 116.022 for advertising for a depository within the county, for applications from banks in an adjoining county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1043 (S.B. 158), Sec. 1, eff. June 18, 2023.

Sec. 116.027. SELECTION OF NONAPPLICANT DEPOSITORY. (a) If no application to be a county depository is submitted, or if all of the applications are declined, the commissioners court shall deposit the funds of the county with any one or more banks in the county or in the adjoining counties in the amounts and for the periods as the commissioners court considers advisable.

(b) A bank that receives deposits under this section shall provide security in the manner and form, and subject to the same conditions, as is required for a depository of county funds. The penalty of the security must at least equal the total amount of county funds deposited with the bank.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.028. SUCCESSOR BANK AS COUNTY DEPOSITORY. (a) If a bank selected to be a county depository and holding county funds is sold to another bank in an adjoining county, the successor bank in the adjoining county may continue to serve as a county depository and apply and be selected as a county depository if the successor bank:

(1) continues to have an office in an adjoining county; and

(2) timely applies and is selected to be a county depository in a manner that ensures no lapse of service as a county depository.

(b) If a bank selected as a county depository and holding county funds closes, a branch of the bank in an adjoining county may continue to serve as a county depository and apply to be a county depository if the successor bank:

(1) continues to have an office in an adjoining county; and

(2) timely applies and is selected to be a county depository in a manner that ensures no lapse of service as a county depository.

Added by Acts 2023, 88th Leg., R.S., Ch. 1043 (S.B. 158), Sec. 2, eff. June 18, 2023.

SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

Sec. 116.051. QUALIFICATION AS DEPOSITORY OR SUBDEPOSITORY. Within 15 days after the date a bank is selected as a county depository or subdepository, the bank must qualify as the depository or subdepository by providing security for the funds to be deposited by the county with the bank. The depository or subdepository may secure these funds, at the option of the commissioners court, by:

(1) personal bond; surety bond; bonds, notes, and other securities; first mortgages on real property; real property; certificates of deposit; or a combination of these methods, as provided by this subchapter; or

(2) investment securities or interests in them as provided by Chapter 726, Acts of the 67th Legislature, Regular Session, 1981 (Article 2529b-1, Vernon's Texas Civil Statutes).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 15(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 527, Sec. 7, eff. Sept. 1, 1991.

Sec. 116.052. PERSONAL BOND. (a) One or more personal bonds executed and filed with the commissioners court, payable to the county judge and the judge's successors in office, qualify as security under this subchapter if:

(1) the bonds are signed by at least five solvent sureties who own unencumbered real property in the state that is not exempt from execution under the constitution and other laws of this state;

(2) the unencumbered and nonexempt real property owned by the sureties has a value at least equal to the amount of the bonds; and

(3) the bonds are approved by the commissioners court.

(b) When a bond is filed for approval with the commissioners court under Subsection (a), the sureties shall also file a statement containing:

(1) a description of the unencumbered and nonexempt real property sufficient to identify it on the ground; and

(2) the value of each tract of real property listed, including the value of the improvements on the property.

(c) After the commissioners court approves a personal bond, it shall be filed in the county clerk's office with the statement of the sureties attached to the bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.053. SURETY BOND. (a) One or more bonds issued and executed by one or more solvent surety companies authorized to do business in this state, payable to the county judge and the judge's successors in office and filed with the commissioners court, qualifies as security under this subchapter if the bond is approved by the commissioners court.

(b) After the commissioners court approves a surety bond, it shall be filed in the county clerk's office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.054. BONDS, NOTES, AND OTHER SECURITIES. (a) A county depository may pledge with the commissioners court as security under this subchapter:

(1) a bond, note, security of indebtedness, or other evidence of indebtedness of the United States if the evidence of indebtedness is supported by the full faith and credit of the United States or is guaranteed as to principal and interest by the United States;

(2) a bond of this state or of a county, municipality, independent school district, or common school district;

(3) a bond issued under the federal farm loan acts;

(4) a road district bond;

(5) a bond, pledge, or other security issued by the board of regents of The University of Texas System;

(6) bank acceptances of banks having a capital stock of at least $500,000;

(7) a note or bond secured by mortgages insured and debentures issued by the Federal Housing Administration;

(8) shares or share accounts of a savings and loan association organized under the laws of this state or of a federal savings and loan association domiciled in this state if the payment of the share or share accounts is insured by the Federal Savings and Loan Insurance Corporation; or

(9) a bond issued by a municipal corporation in this state.

(b) Securities provided under this section must have a total market value equal to the amount of the depository bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.055. FIRST MORTGAGES ON IMPROVED REAL PROPERTY. (a) If approved by the commissioners court, closed first mortgages on improved and unencumbered real property located in this state that are assigned to the county judge in a duly acknowledged instrument qualify as security under this subchapter.

(b) Before approving a mortgage as security, the commissioners court shall require:

(1) a written opinion by an attorney selected by the commissioners court showing that the lien is superior to any other claim to or right in the real property; and

(2) insurance approved by the county judge covering the improvements on each tract of pledged real property and providing that a loss is payable to the county judge.

(c) An insurance policy required under Subsection (b) must be issued by a stock fire insurance company or mutual fire insurance company that has a $100,000 surplus in excess of all legal reserves and other liabilities.

(d) A mortgage accepted as security under this section shall immediately be recorded in each county in which part of the real property is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.056. REAL PROPERTY. (a) If approved by the commissioners court, improved and unencumbered real property, pledged directly by deed of trust to a trustee selected by the commissioners court, with the county judge as beneficiary, qualifies as security under this subchapter.

(b) Before approving real property offered as security, the commissioners court shall require:

(1) a written opinion by an attorney selected by the commissioners court showing that the lien is superior to any other claim to or right in the real property; and

(2) insurance approved by the county judge covering the improvements on the pledged real property and providing that a loss is payable to the county judge.

(c) An insurance policy required under Subsection (b) must be issued by a stock fire insurance company or mutual fire insurance company that has a $100,000 surplus in excess of all legal reserves and other liabilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.0565. CERTIFICATE OF DEPOSIT. (a) A certificate of deposit qualifies as security under this subchapter if the certificate is:

(1) held in the custody of a Federal Reserve Bank for safekeeping and made the subject of a valid pledge agreement designating the county as the beneficiary of the pledge agreement;

(2) insured in full by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation;

(3) described in detail by a safekeeping receipt issued to the county by the Federal Reserve Bank having custody of the certificates; and

(4) issued with the county as registered owner.

(b) A person to whom presentment of a certificate of deposit pledged to secure county funds is made may not pay or otherwise accept the certificate unless the certificate or the safekeeping receipt required by this section has been endorsed by the county and the depository.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 15(b), eff. Aug. 28, 1989.

Sec. 116.057. CONDITION OF PERSONAL BOND OR CONTRACT FOR SECURITIES. (a) A personal bond provided or a contract for the pledge of securities under this subchapter must be conditioned that the depository will:

(1) faithfully keep the county funds and faithfully perform all duties and obligations imposed by law on the depository;

(2) pay all checks drawn on a demand deposit account in a depository on presentation by the county treasurer;

(3) pay all checks drawn on a time deposit account on presentation after the expiration of the required period of notice; and

(4) account for the county funds as required by law.

(b) A suit on a personal bond or a contract for securities provided or pledged under this subchapter must be tried in the county for which the depository is selected.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.058. AMOUNT OF SECURITY REQUIRED. (a) Personal or surety bonds that secure county deposits must be in an amount equal to the estimated highest daily balance of the county, as determined by the commissioners court. However, the commissioners court may not estimate the highest daily balance at an amount that is less than 75 percent of the highest daily balance of the county for the preceding year, less the amount of bond funds received and expended.

(b) Securities pledged to secure county funds on deposit in a depository must be in an amount equal to the amount of those funds. However, real property securities may not be required in an amount greater than 25 percent of the assessed value of the property in the county, as shown by the certified tax roll for the preceding year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.059. VALUATION OF REAL PROPERTY PROVIDED AS SECURITY. The commissioners court shall investigate all real property security and determine the value at which the property will be accepted. The commissioners court may not accept real property as security at a value greater than 50 percent of the reasonable market value of the property covered by a mortgage unless the mortgage is insured or guaranteed by the Federal Housing Administration.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.060. SECURITY NOT REQUIRED FOR FEDERALLY INSURED DEPOSITS. A depository is not required to provide security for the deposit of county funds to the extent the deposits are insured under 12 U.S.C.A. Sections 1811-1832.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. MAINTENANCE AND MODIFICATION OF SECURITY

Sec. 116.081. NEW BOND. (a) The commissioners court may by written order require a depository to execute a new bond whenever the commissioners court considers it advisable or considers it necessary for the protection of the county.

(b) Except for an additional bond required under Section 116.087, if a depository fails for any reason to file the required new bond within five days after the date the depository is served with a copy of the order, the commissioners court may select a new depository in the same manner as it would select a depository at the regular time.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.082. SUBSTITUTION OF SECURITIES. (a) After reasonable notice to the commissioners court, a depository is entitled to substitute one type of security for another or replace particular securities with others of the same type if the substituting or replacing security meets the requirements of law and is approved by the commissioners court. Instead of approval of each substitute or replacement security by the commissioners court, the commissioners court may:

(1) adopt a procedure for approving a substitute or replacement security under this section; and

(2) designate a county employee or official, including a county judge, to approve the substitute or replacement security under the procedure adopted under Subdivision (1).

(b) The county judge shall execute the necessary instruments to transfer to the depository or its order a lien withdrawn from real property for which another security is substituted.

(c) The commissioners court may direct the manner in which securities pledged in place of personal or surety bonds are to be deposited.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 742, Sec. 1, eff. June 20, 2003.

Sec. 116.083. RELEASE OF EXCESS SECURITY. If the securities pledged by a depository to secure county funds exceed the amount required under this chapter, the commissioners court shall permit the release of the excess.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.084. INADEQUATE SECURITY. If for any reason the county funds on deposit with the county depository exceed the amount of security pledged, the depository shall immediately pledge additional security with the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.085. SOLVENCY OF PERSONAL SURETY. (a) At least twice each year while a personal bond securing the county's deposits is in effect, the commissioners court shall investigate the solvency of each surety on the bond. The commissioners court may require the surety to make an itemized and verified financial statement correctly showing the surety's financial position and, if the bond requires the surety to own real property, identifying each tract of real property owned by the surety and stating its value.

(b) The commissioners court shall require a depository to provide a new bond meeting the requirements of this chapter if a financial statement provided under Subsection (a) indicates that:

(1) a surety is insolvent;

(2) a surety's net worth is less than the amount required by this chapter;

(3) the assets listed on the statement are depreciated or their value is in any way impaired; or

(4) real property required by the bond has been disposed of or encumbered and the value of the surety's remaining unencumbered and nonexempt real property is inadequate to meet the requirements of this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.086. SOLVENCY OF SURETY COMPANY AND ADEQUACY OF SECURITIES. Whenever the commissioners court considers it necessary for the protection of the county, the commissioners court may investigate the solvency of a surety company that issues a bond on behalf of a depository of county funds or investigate the value of securities pledged by a depository to secure county funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.087. ADDITIONAL BOND. (a) If after a county establishes a depository the county or a subdivision of the county receives funds from the sale of bonds or otherwise, at the next meeting of the commissioners court, or as soon afterward as is practical, the commissioners court may make written demand on the depository to provide an additional bond in an amount equal to the amount of funds received. If county funds derived from the sale of

county securities during the term of a depository bond are deposited with the depository, the commissioners court shall require an additional bond in an amount equal to the additional county funds. The depository shall continue the additional bond in effect as long as the additional funds remain in the depository.

(b) The depository may cancel this extra or special bond and concurrently substitute a new bond for it as the additional funds are reduced. However, the additional bond must always at least equal the amount of the additional funds.

(c) If a depository does not provide an additional bond under Subsection (a) within 30 days after the date the commissioners court demands the additional bond, the commissioners court may withdraw the additional funds from the depository by the draft of the county treasurer and deposit them in a solvent national or state bank that has a combined capital stock and surplus greater than the amount of the additional funds. The commissioners court may leave the additional funds on deposit with this alternative bank until the county depository files the required additional bond with the commissioners court, after which the commissioners court shall redeposit the balance of the additional funds with the county depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.088. RELEASE OF SURETY COMPANY. (a) A surety company may be relieved of its obligations under a surety bond executed on behalf of a county depository after the 30th day after the date it gives written notice to the commissioners court requesting to be released.

(b) A surety company is not relieved under Subsection (a) of liability for a loss sustained by the county before the expiration of the bond.

(c) If a depository's surety company requests to be relieved from its obligations under Subsection (a), the depository shall provide further security acceptable to the commissioners court to secure county funds under this chapter. The depository shall provide the further security before termination of the surety's obligations under the bond. The new security shall be filed in the county clerk's office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.089. SURRENDER OF INTEREST ON SECURITIES. On the request of a county depository, the commissioners court shall surrender, when due, interest coupons or other evidence of interest on securities deposited by the depository with the commissioners court if the securities remaining pledged by a depository are adequate to meet the requirements of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. DEPOSITORY ACCOUNTS

Sec. 116.111. CHARACTER AND AMOUNT OF DEPOSITS. The commissioners court may determine and designate the character and amount of county funds that will be demand deposits and that will be time deposits. The commissioners court may contract with a depository for interest on time deposits at any legal rate under a federal law or under a rule adopted by the board of governors of the Federal Reserve System or by the board of directors of the Federal Deposit Insurance Corporation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.112. INVESTMENT OF FUNDS. (a) The commissioners court may direct the county treasurer to withdraw any county funds deposited in a county depository that are not immediately required to pay obligations of the county and invest those funds as provided by this section unless such an investment or withdrawal is prohibited by law or the withdrawal is contrary to the terms of the depository contract.

(b) The funds may be invested in accordance with Subchapter A, Chapter 2256, Government Code. In addition to the obligations, certificates, and agreements described by that Act, the funds may be invested in certificates of deposit issued by a state or federal savings and loan association domiciled in this state, the payment of which is insured in full by the Federal Savings and Loan Insurance Corporation or its successor.

(c) If a county purchases a security repurchase agreement, the

agreement must be purchased under a master contractual agreement that specifies the rights and obligations of both parties and that requires that securities involved in the transaction be held in a safekeeping account subject to the control and custody of the county.

(d) Repealed by Acts 1989, 71st Leg., ch. 754, Sec. 2, eff. June 15, 1989.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 15(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 754, Sec. 1, 2, eff. June 15, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(11), eff. Sept. 1, 1995.

Sec. 116.113. DEPOSIT OF FUNDS. (a) Immediately after the commissioners court designates a county depository, the county treasurer shall transfer to the depository all of the county's funds and the funds of any district or municipal subdivision of the county that does not select its own depository. The treasurer shall also immediately deposit with the depository to the credit of the county, district, or municipality any money received after the depository is designated.

(b) A county tax assessor-collector shall immediately deposit in the county depository taxes collected on behalf of the state, the county, or a district or municipal subdivision of the county. The taxes remain on deposit pending the preparation and settlement of the assessor-collector's report on the tax collections.

(c) If a commissioners court that controls school district funds elects to transfer the funds during a school year from a county depository to another bank, the school district may require the commissioners court to delay the transfer until the earlier of the end of the school district's current fiscal year or the next September 1.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.114. COLLECTIONS BY DEPOSITORY. A county depository shall collect all checks, drafts, and demands for money deposited with it by the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.115. CLEARINGHOUSE FOR MULTIPLE DEPOSITORIES. If the funds of a county are deposited with more than one depository, the commissioners court shall by order name one of the depositories to act as a clearinghouse for the others. All county orders for payment are finally payable at the depository named as the clearinghouse.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 22, eff. September 1, 2011.

Sec. 116.116. OBLIGATIONS PAYABLE AT COUNTY DEPOSITORY. (a) A county depository shall pay a check or order for payment drawn by the county treasurer against funds deposited with the depository on presentation of the check or order if the funds subject to the check or order are in the possession of the depository, and, in the case of a time deposit, if the agreed period of notice has expired.

(b) If the commissioners court selects a depository in another county, the depository shall file a statement with the county treasurer designating the place in the county governed by the commissioners court where, and the person by whom, deposits by the treasurer may be received and checks will be paid, or the place in another county where deposits may be made and checks may be paid. The statement must be filed within five days after the date notice is given to the depository of its selection.

(c) An order for payment or check, including an order or check issued prior to September 1, 1993, issued by the county treasurer in settlement of a claim against a county that is not presented for payment before the 366th day following the date of issuance is overdue and nonnegotiable. The sum of the overdue order or check shall be credited as revenue to the county if delivery to the payees was attempted or occurred within a reasonable time following the issuance of the order or check. No right to full settlement of a proper unpaid claim is extinguished by this subsection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 326, Sec. 1, eff. June 5, 1991; Acts 1993, 73rd Leg., ch. 931, Sec. 1, eff. Aug. 30, 1993; Acts 1997,

75th Leg., ch. 329, Sec. 1, eff. May 26, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 23, eff. September 1, 2011.
Acts 2023, 88th Leg., R.S., Ch. 1043 (S.B. 158), Sec. 3, eff. June 18, 2023.

Sec. 116.117. STATEMENTS OF ACCOUNT. A depository shall make a detailed monthly statement to the commissioners court at each regular term of the court. The statement must show the daily balance credited to each of the funds on deposit.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.118. DEBTS PAYABLE OTHER THAN AT COUNTY TREASURY. The commissioners court may instruct the county treasurer to deposit money adequate to pay a bond, coupon, or other indebtedness of the county at a place other than at the county treasury if by its terms the indebtedness is payable on maturity at the other location and if the payment is otherwise made in the manner required by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.119. REQUIREMENTS FOR AUDITING AND COUNTERSIGNING UNAFFECTED. This chapter does not affect the application of a law or regulation providing for auditing and countersigning.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.120. COLLECTION OF CERTAIN OVERDUE COUNTY ORDERS FOR PAYMENT OR CHECKS. (a) This section applies only to an order for payment or check issued by a county treasurer in settlement of a claim against a county that has not been presented for payment.
(b) A person attempting to recover funds from the county for a check or order for payment issued by the county treasurer may not charge the person to whom the check or order was issued and on whose behalf the attempted recovery is made, or that person's successors or

assigns, a fee in an amount equal to more than 10 percent of the face value of the check or order.

(c) A county treasurer may collect a reasonable research fee to determine if a claim submitted under this section is valid. The treasurer may include the costs of inquiries to depository banks, research of accounting records, and other similar actions in setting the fee. A county treasurer may require the fee to be paid before a claim may be processed or researched under this section.

Added by Acts 1997, 75th Leg., ch. 142, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 24, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 25, eff. September 1, 2011.

SUBCHAPTER F. LIABILITIES

Sec. 116.151. LIABILITIES OF SURETIES ON SEPARATE BONDS. If a county depository provides separate bonds to secure county funds, each surety under a bond is liable only for that part of a loss resulting from the failure of the depository that bears to the total loss the same ratio as the amount of the bond bears to the total amount of all bonds and securities held by the county for the protection of the funds covered by the bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.152. SUBROGATION OF SURETIES. If a personal surety or a surety company pays for a loss to a county under a depository bond, the surety is subrogated to the rights of the county in an amount equal to the amount of the surety's payment. However, the amount of the subrogation may not exceed the amount of the deposit secured by the surety at the time of the depository's default.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.153. PRO RATA RECOVERY BY STATE AND COUNTY. If a county depository becomes insolvent and it becomes necessary to

resort to the depository's bond or bonds to recover funds of the county and the state, the state and county are entitled to share pro rata in the recovery.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.154. LIABILITY OF DEPOSITORY PENDING COLLECTION OF DEPOSITS. A county depository that uses due diligence to collect a check, draft, or demand for money deposited by the county with the depository is not liable for the collection until the proceeds have been received by the depository. The depository shall charge the county and the county shall pay a collection expense that the depository may not pay or absorb because of a federal law or a regulation adopted by the board of governors of the Federal Reserve System or by the board of directors of the Federal Deposit Insurance Corporation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 116.155. FAILURE OF DEPOSITORY TO PAY CHECK OR ORDER FOR PAYMENT. A depository that does not pay a check or order for payment as required by Section 116.116(a) is liable for and shall pay to the holder 10 percent of the amount of the check or order for payment, and the commissioners court shall revoke the order creating the depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 26, eff. September 1, 2011.

CHAPTER 117. DEPOSITORIES FOR CERTAIN TRUST FUNDS AND COURT REGISTRY FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 117.001. DEFINITIONS. In this chapter:

(1) "Bank" means a banking corporation or association, an individual banker, or a state or federal savings and loan association or savings bank.

(2) "Clerk" means a county clerk, a district clerk, or a county and district clerk.

(3) "Registry funds" means funds tendered to the clerk for deposit into the registry of the court.

(4) "Separate account" means funds transferred from a special account into a separate interest-bearing account.

(5) "Special account" means an account in a depository in which registry funds are placed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 552, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 1, eff. Sept. 1, 1997.

Sec. 117.002. TRANSFER OF UNCLAIMED FUNDS TO COMPTROLLER. Any funds deposited under this chapter, except cash bail bonds, that are presumed abandoned under Chapter 72, 73, or 75, Property Code, shall be reported and delivered by the county or district clerk to the comptroller without further action by any court. The dormancy period for funds deposited under this chapter begins on the later of:

(1) the date of entry of final judgment or order of dismissal in the action in which the funds were deposited;

(2) the 18th birthday of the minor for whom the funds were deposited; or

(3) a reasonable date established by rule by the comptroller to promote the public interest in disposing of unclaimed funds.

Added by Acts 1991, 72nd Leg., ch. 153, Sec. 26, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 329, Sec. 2, eff. May 26, 1997; Acts 1997, 75th Leg., ch. 505, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1037, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 13.01, eff. Sept. 1, 1997.

Sec. 117.003. COMPLIANCE WITH FEDERAL TAX LAW FOR FUNDS HELD UNDER THIS CHAPTER. (a) If any funds deposited under this chapter are placed into an interest-bearing account, any person with a taxable interest in funds deposited to such account must submit appropriate tax forms and provide correct information to the district or county clerk so that the interest earned on such funds can be

timely and appropriately reported to the Internal Revenue Service. The information and forms provided to the district or county clerk under this section are not subject to public disclosure except to the extent necessary to effectuate compliance with federal tax law requirements.

(b) The district or county clerk is authorized to pay any or all of the interest earned on funds deposited under this chapter, without court order, to the Internal Revenue Service to satisfy tax withholding requirements.

Added by Acts 1997, 75th Leg., ch. 505, Sec. 3, eff. Sept. 1, 1997.

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 117.021. APPLICATIONS. (a) The commissioners court of a county shall select by the process provided by this subchapter or by Subchapter C, Chapter 262, a federally insured bank or banks in the county to be the depository for a special account held by the county clerk and the district clerks. The county shall enter a contract with the selected federally insured bank or banks for a two-year or four-year term. The original term can be renewed once for an additional two-year term. The contract may, on request by the clerk and approval of the commissioners court, include a provision that the funds in a special account earn interest. A request from the clerk that an account earn interest must be made, in writing, to the commissioners court not later than the 30th day before the date the county gives notice under Section 117.022 and shall be entered in the minutes of the court.

(b) If the contract is for a four-year term, the contract shall allow the county to establish, on the basis of negotiations with the bank, new interest rates and financial terms of the contract that will take effect during the final two years of the four-year contract.

(c) On the renewal of a contract, the county may negotiate new interest rates and terms with the bank for the next two years in the same way and under the same conditions as provided by Subsection (b).

(d) A bank must file its application on or before a date set by the commissioners court. The application must be accompanied by a certified check or cashier's check for at least one-half of one percent of the average daily balance of the registry funds held by

the county clerk and the district clerk during the preceding calendar year, as determined by the county clerk and the district clerk on or before the 10th day before the date the application is required to be filed. A certified check or cashier's check that complies with this section is a good-faith guarantee on the part of the applicant that if its application is accepted it will execute the bond required under this subchapter. If the bank selected as depository does not provide the bond, the county shall retain the amount of the check as liquidated damages and the county shall select another depository as provided by this subchapter.

(e) If for any reason a county depository is not selected under Subsection (a), the commissioners court, at any subsequent time after 20 days' notice, may select, by the process described by Section 117.023 or by negotiated bid, one or more depositories in the same manner as at the regular term.

(f) If the commissioners court selects a depository by the process provided by Subchapter C, Chapter 262, the depository may be selected by:

(1) competitive bidding; or

(2) another method under that subchapter that the county is qualified to use.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 326, Sec. 2, eff. June 5, 1991; Acts 1991, 72nd Leg., ch. 527, Sec. 8, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 65, Sec. 3, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 5, eff. June 15, 2007.

Sec. 117.022. NOTICE. A county shall advertise or give notice that the county will accept applications to be the depository for registry funds held by the county clerk and the district clerk in the same manner as notice is required under Section 116.022.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 505, Sec. 5, eff. Sept. 1, 1997.

Sec. 117.023. SELECTION OF DEPOSITORY. (a) At the meeting at which banks are to be selected to serve as the depository for registry funds held by the county clerk and the district clerk, the commissioners court shall enter the applications in the minutes of the court and select a depository.

(b) After a depository is selected, the commissioners court shall return the certified checks of the applicants that were not selected. The commissioners court shall return the check of the selected applicant only after the applicant files a bond that is approved by the commissioners court.

(c) The conflict of interests provisions of Section 131.903 apply to the selection of the depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 30, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 505, Sec. 6, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 6, eff. June 15, 2007.

Sec. 117.024. QUALIFICATION AS DEPOSITORY. Within 30 days after the date a bank is selected as a depository under this subchapter, the bank must qualify to serve as the depository in the same manner as is required for the qualification of county depositories under Chapter 116.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989.

Sec. 117.025. DESIGNATION OF DEPOSITORY. (a) After a bank selected to be a depository under this subchapter qualifies under Section 117.024 and is selected by the commissioners court, the commissioners court shall by an order entered in its minutes designate the bank or banks as the depository for the registry funds.

(b) A designation under Subsection (a) is effective until the designation and qualification of a successor depository or until April 15 following the expiration of the contract, whichever is earlier. If the term of a depository ends before the designation and qualification of a successor, the depository shall pay to the clerk

in whose name the account is carried all registry funds due or on deposit.

(c) A designated depository shall provide security for the funds deposited into the registry fund accounts in the same manner as Subchapter C, Chapter 116.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 7, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 7, eff. June 15, 2007.

Sec. 117.026. ADVERTISEMENT FOR AND SELECTION OF DEPOSITORY OUTSIDE THE COUNTY. (a) Subject to Sections 116.026 and 116.028, the commissioners court may select a federally insured bank or banks located outside the county to serve as the depository under this subchapter if:

(1) for any reason no bank located in the county applies to be designated as the depository;

(2) an application is not made for the entire amount of the registry funds;

(3) the commissioners court rejects all the applications submitted;

(4) a depository selected by the commissioners court fails to qualify;

(5) a depository becomes insolvent; or

(6) a new depository is selected because of the failure of the regular depository to execute a new bond under Section 117.057.

(b) Before selecting a depository under Subsection (a), the commissioners court shall advertise for applications from banks located in this state by publishing a notice of the selection once a week for two consecutive weeks in a newspaper of general circulation published in the county. If such a newspaper is not published in the county, the commissioners court shall post the notice at the courthouse for two weeks. The commissioners court may also publish the notice in any newspaper outside the county for the same length of time.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 8, eff. Sept. 1, 1997.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1043 (S.B. 158), Sec. 4, eff. June 18, 2023.

Sec. 117.027. FAILURE TO SELECT DEPOSITORY. If the commissioners court has not selected a depository under this subchapter, a clerk holding money, an evidence of debt, an instrument of writing, or any other article deposited into the registry of the court pending the result of a legal proceeding shall seal the article in a secure package and deposit the package in an iron safe or a bank vault.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 9, eff. Sept. 1, 1997.

Sec. 117.028. APPLICATION OF COUNTY DEPOSITORY LAW. Except as otherwise expressly stated, the provisions of Chapter 116 relating to county depositories also apply to a depository selected under this chapter.

Added by Acts 1997, 75th Leg., ch. 505, Sec. 10, eff. Sept. 1, 1997.

SUBCHAPTER C. DEPOSITORY ACCOUNTS

Sec. 117.052. DEPOSITS OF REGISTRY FUNDS BY COUNTY AND DISTRICT CLERKS. (a) If a depository has been selected under Subchapter B, a county clerk or a district clerk who is to have for more than three days legal custody of money deposited in the registry of the court pending the result of a legal proceeding shall deposit the money in the depository.

(b) The funds deposited shall be carried at the depository selected under this chapter as a special account in the name of the clerk making the deposit.

(c) A clerk is responsible for funds deposited into the registry fund from the following sources:

(1) funds of minors or incapacitated persons;

(2) funds tendered in an interpleader action;
(3) funds paid in satisfaction of a judgment;
(4) child support funds held for more than three days;
(5) cash bonds;
(6) cash bail bonds;
(7) funds in an eminent domain proceeding; and
(8) any other funds tendered to the clerk for deposit into the registry of the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 11, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 292, Sec. 1, eff. May 23, 2001.

Sec. 117.0521. CUSTODIANSHIP. A clerk shall act only in a custodial capacity in relation to a registry fund, a special account, or a separate account. A clerk is not a trustee for the beneficial owner and does not assume the duties, obligations, or liabilities of a trustee for a beneficial owner.

Added by Acts 1997, 75th Leg., ch. 505, Sec. 12, eff. Sept. 1, 1997.

Sec. 117.053. WITHDRAWAL OF FUNDS. (a) If a commissioners court selects a new depository under Subchapter B, when the depository qualifies, the county clerk and the district clerk shall transfer the funds in a special account from the old depository to the new depository, and the clerks may draw checks on the accounts for this purpose.

(b) Except as provided by Subsection (a), a clerk may not draw a check on special account funds held by a depository except to pay a person entitled to the funds. The payment must be made under an order of the court of proper jurisdiction in which the funds were deposited except that an appeal bond shall be paid without a written order of the court on receipt of mandate or dismissal and funds deposited under Chapter 1355, Estates Code, may be paid without a written order of the court. The clerk shall place on the check the style and number of the proceeding in which the money was deposited with the clerk.

(c) The clerk shall transfer any registry funds into a separate

account when directed to by a written order of a court of proper jurisdiction or when the clerk is required to under Chapter 1355, Estates Code. The clerk shall transfer the funds into a separate account in:

(1) interest-bearing deposits in a financial institution doing business in this state that is insured by the Federal Deposit Insurance Corporation;

(2) United States treasury bills;

(3) an eligible interlocal investment pool that meets the requirements of Sections 2256.016, 2256.017, and 2256.019, Government Code; or

(4) a no-load money market mutual fund, if the fund:

(A) is regulated by the Securities and Exchange Commission;

(B) has a dollar weighted average stated maturity of 90 days or fewer; and

(C) includes in its investment objectives the maintenance of a stable net asset value of $1 for each share.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 13, eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.050, eff. September 1, 2017.

Sec. 117.054. COUNTY EXPENSES PAID FROM INTEREST. (a) If a special or separate account earns interest, the clerk, at the time of withdrawal, shall pay in a manner directed by a court with proper jurisdiction the original amount deposited into the registry of the court and any interest credited to the account in the manner calculated in Subsection (b).

(b) The interest earned on a special account or a separate account shall be paid in the following amounts:

(1) 10 percent of the interest shall be paid to the general fund of the county to compensate the county for the accounting and administrative expenses of maintaining the account; and

(2) 90 percent of the interest shall be credited to the special or separate account.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 505, Sec. 14, eff. Sept. 1, 1997.

Sec. 117.055. COUNTY EXPENSES PAID FROM FEES. (a) Except as provided by Subsection (a-1), to compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, the clerk shall, at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but that may not exceed $50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section.

(a-1) A clerk may not deduct a fee under Subsection (a) from a withdrawal of funds generated by the collection of a cash bond or cash bail bond if in the case for which the bond was taken:

(1) the defendant was found not guilty after a trial or appeal; or

(2) the complaint, information, or indictment was dismissed without a plea of guilty or nolo contendere being entered.

(a-2) On the request of a person to whom withdrawn funds generated by the collection of a cash bond or cash bail bond were disbursed, the clerk shall refund to the person the amount of the fee deducted under Subsection (a) if:

(1) subsequent to the deduction, a court makes or enters an order or ruling in the case for which the bond was taken; and

(2) had the court made or entered the order or ruling before the withdrawal of funds occurred, the deduction under Subsection (a) would have been prohibited under Subsection (a-1).

(b) A fee collected under this section shall be deposited in the general fund of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 16(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 15, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 119, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2021, 87th Leg., 2nd C.S., Ch. 11 (S.B. 6), Sec. 19, eff. December 2, 2021.

Sec. 117.056. OBLIGATIONS PAYABLE AT COUNTY SEAT. (a) A depository selected under Subchapter B shall pay a check drawn by a county or district clerk against funds deposited in the clerk's name on presentment of the check at the county seat if the funds subject to the check are in the possession of the depository.

(b) If the depository is not located at the county seat, the depository shall file a statement with the county clerk of the county designating a place at the county seat where, and a person by whom, deposits by the clerks will be received and checks drawn on the depository will be paid. The depository shall pay a check on presentment at the designated place if the depository has sufficient funds credited to the applicable account.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989.

Sec. 117.057. NEW BOND. (a) A commissioners court may require a depository selected under Subchapter B to execute a new bond whenever the commissioners court considers it necessary for the protection of the county clerk's and the district clerk's registry funds.

(b) If a depository does not file a new bond required by an order of the commissioners court within five days after the date a copy of the order is served on the depository, the commissioners court may select another depository in the manner provided by Subchapter B.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 16, eff. Sept. 1, 1997.

Sec. 117.058. ACCOUNTING FOR AND DISBURSING REGISTRY FUNDS IN COUNTIES WITH POPULATION OF 190,000 OR MORE. (a) This section applies to a county with a population of 190,000 or more.

(b) If the commissioners court of a county provides a depository for the registry funds of the county clerk or the district clerk, those officers shall make reports under oath to the county

auditor to properly reflect all registry funds received and disbursed by the officer, including all money remaining on hand at the time of the report. The county auditor shall prescribe the form and frequency of the report.

(c) Each check issued for the disbursement of the funds must be issued in accordance with the laws providing for registry fund depositories. Each check must be signed according to procedure established by the county auditor before delivery or payment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 505, Sec. 17, eff. Sept. 1, 1997.

SUBCHAPTER D. LIABILITIES AND PENALTIES

Sec. 117.081. LIABILITY OF COUNTY AND DISTRICT CLERKS. (a) A county clerk or a district clerk is not responsible for a loss of registry funds resulting from the failure or negligence of a depository.

(b) This section does not release a county clerk or a district clerk from:

(1) liability for a loss of registry funds resulting from the clerk's official misconduct, negligence, or misappropriation of the funds; or

(2) responsibility for keeping the registry funds safe until the clerk deposits them in a depository selected under Subchapter B.

(c) After a county clerk or a district clerk deposits in a depository selected under Subchapter B the registry funds held by the clerk, the clerk is relieved of the responsibility for keeping the funds secure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 18, eff. Sept. 1, 1997.

Sec. 117.083. LOSS OF REGISTRY FUNDS. If registry funds held by a county clerk or a district clerk and deposited by the county with a depository selected under Subchapter B are lost for any reason, including a loss due to the insolvency of the depository, the county is liable to the rightful owner of the funds for the full

amount of the funds due the owner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 19, eff. Sept. 1, 1997.

Sec. 117.084. DEPOSITORY TO PAY CHECK ON PRESENTMENT. A depository selected under Subchapter B shall pay a check drawn against funds deposited with the depository in a special or separate account on presentation of the check if the funds that are subject to the check are in the possession of the depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 20, eff. Sept. 1, 1997.

SUBCHAPTER E. SPECIAL PROVISIONS APPLYING TO FUNDS PAID INTO COURT REGISTRY IN COUNTY WITH POPULATION OF MORE THAN 1.3 MILLION

Sec. 117.111. SUBCHAPTER APPLICABLE TO COUNTY WITH POPULATION OF 1.3 MILLION OR MORE. This subchapter applies only to a county with a population of 1.3 million or more.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 477 (S.B. 490), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1183 (H.B. 3637), Sec. 2, eff. September 1, 2009.

Sec. 117.112. MONEY AFFECTED. This subchapter applies to the following kinds of money paid into the registry of any court for which a clerk is or may become responsible:

(1) funds of minors or incapacitated persons;

(2) funds tendered in connection with a bill in interpleader; or

(3) any other funds.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Amended by Acts 1999, 76th Leg., ch. 196, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 292, Sec. 2, eff. May 23, 2001.

Sec. 117.113. DEPOSITORY CONTRACT. The commissioners court of the county collecting the funds may contract with one or more banks in the county for the deposit of the funds in a special account to be called the "registry fund."

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.114. NOTICE. Once each week for at least three consecutive weeks before the date the contract will be awarded, the county judge shall place over the judge's name in a newspaper published in the county a notice that the commissioners court intends to make the contract. A notice shall also be posted at the courthouse door of the county.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.115. APPLICATIONS. A bank in the county that wants to be a special depository for the registry fund is subject to the same application provisions as those prescribed by Section 116.023 for the applicants for the county depository contract.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.116. SELECTION OF DEPOSITORY. At the time and place stated in the notice, the commissioners court shall select a special depository for the registry fund in accordance with the same provisions as those prescribed by Section 116.024 for the selection of a county depository.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.117. QUALIFICATION AS DEPOSITORY. A bank selected as a special depository for the registry fund must qualify as the

depository in accordance with the same provisions as those prescribed by Subchapter C, Chapter 116, for the qualification as a county depository.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.118. APPLICATION OF COUNTY DEPOSITORY LAW. Matters regarding special depositories for the registry fund are subject to the same provisions as those prescribed by Chapter 116 regarding county depositories, including Sections 116.026 and 116.028.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 752, Sec. 1, eff. Aug. 26, 1991. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1043 (S.B. 158), Sec. 5, eff. June 18, 2023.

Sec. 117.119. DEPOSIT OF FUNDS. Money paid into the registry of the court shall be deposited by a clerk into the registry fund at the special depository.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 752, Sec. 1, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 196, Sec. 2, eff. Aug. 30, 1999.

Sec. 117.120. CUSTODIANSHIP. A clerk shall act only in a custodial capacity regarding the registry fund, is not considered to be a trustee for the beneficial owner, and is not considered to have assumed the duties, obligations, or liabilities of a trustee for the beneficial owner.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 3, eff. Aug. 30, 1999.

Sec. 117.121. DISBURSEMENT OF FUNDS. (a) Money may be paid from the registry fund only on checks or drafts signed by a clerk on the written order of the court with proper jurisdiction, except that

the clerk may make a payment without court order for unpaid court costs from a cash bond deposited in connection with an appeal after the appellate court issues its mandate in the appeal if the costs remain unpaid for 45 days after the mandate is issued.

(b) All checks or drafts issued for the disbursement of the registry fund must be submitted to the county auditor for the auditor's countersignature before delivery or payment. The county auditor may countersign the checks only on written evidence of the order of the judge of the court in which the funds have been deposited, authorizing the disbursement of the funds.

(c) Notwithstanding Subsections (a) and (b), a disbursement under an order of a court in which registry funds have been deposited may be made by electronic transfer if:

(1) the designated recipient of the money submits to a clerk a written request for the transfer;

(2) the clerk gives written approval for the transfer; and

(3) a county auditor countersigns the approval.

(d) A clerk may charge a reasonable fee, subject to the approval of the recipient of the money, for an electronic transfer of a disbursement from a registry fund.

Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Renumbered from Sec. 117.122 by Acts 1991, 72nd Leg., ch. 752, Sec. 2, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 505, Sec. 21, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 4, eff. Aug. 30, 1999.

Sec. 117.122. INTEREST. (a) The interest derived from money on deposit in the registry fund shall be paid as earned as follows:

(1) a sum equal to 10 percent of the interest shall be paid into the general fund of the county to reimburse the county for the expenses of maintaining the registry fund; and

(2) the remaining 90 percent of the interest shall be credited to the registry fund.

(b) For each withdrawal, a clerk shall pay out the original amount deposited in the registry of the court and 90 percent of the interest earned on that amount at the time and in the manner directed by the court with proper jurisdiction.

Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Renumbered from Sec. 117.123 and amended by Acts 1991, 72nd Leg., ch. 752, Sec. 3, eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 5, eff. Aug. 30, 1999.

Sec. 117.123. AUDIT. (a) The registry funds shall be audited at the end of each county fiscal year by the county auditor or by an independent certified public accountant or a firm of independent certified public accountants of recognized integrity and ability selected by the commissioners court.

(b) A written report of the audit shall be delivered to the county judge, each county commissioner, and a clerk not later than the 180th day after the last day of the fiscal year. A copy of the audit shall be kept at the clerk's office and shall be open to inspection by any interested person during normal office hours. The cost of the audit shall be paid by the county.

Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.
Renumbered from Sec. 117.124 and amended by Acts 1991, 72nd Leg., ch. 752, Sec. 4, eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 6, eff. Aug. 30, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 411 (S.B. 356), Sec. 1, eff. June 14, 2013.

Sec. 117.124. LIABILITY OF CLERK. (a) A clerk is not responsible for:

(1) a loss of funds resulting from the failure or negligence of a depository; or

(2) the safety of funds after deposit in a depository selected under this subchapter.

(b) A clerk is responsible for:

(1) a loss of funds resulting from the clerk's official misconduct, negligence, or misappropriation of the funds; and

(2) the safety of funds before deposit in a depository selected under this subchapter.

Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.
Renumbered from Sec. 117.126 and amended by Acts 1991, 72nd Leg., ch. 752, Sec. 5, eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg.,

ch. 196, Sec. 7, eff. Aug. 30, 1999.

Sec. 117.125. TRANSFER OF MONEY. (a) In the absence of a contrary order from a court having jurisdiction over the registry fund, a clerk may transfer money deposited in the fund into a separate account.

(b) A clerk shall transfer all money deposited in a registry fund under Chapter 1355, Estates Code, into a separate account.

(c) Money transferred into a separate account under this section must be:

(1) transferred into an account authorized for investment under Chapter 2256, Government Code, by a local government or investment pool; and

(2) invested according to the investment officer designated under Section 2256.005, Government Code, by the investing entity of which the county is a member.

(d) A transfer of money into a separate account under this section is exempt from the requirements prescribed by Section 117.121 for disbursements from registry funds.

(e) An investment of money transferred from a registry fund under this section is subject to the limitations, policies, and standards of care provided by Chapter 2256, Government Code.

Added by Acts 1999, 76th Leg., ch. 196, Sec. 8, eff. Aug. 30, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.051, eff. September 1, 2017.

CHAPTER 118. FEES CHARGED BY COUNTY OFFICERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 118.001. DEFINITION. In this chapter, "document" includes any instrument, document, paper, or record.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.002. BILL FOR FEES. A fee under this chapter is not payable to a person until a clerk or officer produces or is ready to produce a bill in writing containing the details of the fee to the

person who owes the fee. The bill must be signed by the clerk or officer to whom the fee is due or who charges the fee or by the successor in office or legal representative of the clerk or officer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 31, eff. Sept. 1, 1993.

SUBCHAPTER B. FEES OF COUNTY CLERK OTHER THAN COURT FEES

Sec. 118.011. FEE SCHEDULE. (a) A county clerk shall collect the following fees for services rendered to any person:

(1) Personal Property Records Filing (Sec. 118.012):

(A) for the first page $ 5.00;

(B) for each additional page or part of a page on which there are visible marks of any kind $ 4.00;

(2) Real Property Records Filing (Sec. 118.013):

(A) for the first page $ 5.00;

(B) for each additional page or part of a page on which there are visible marks of any kind $ 4.00;

(C) for all or part of each 8-1/2" X 14" attachment or rider $ 4.00;

(D) for each name in excess of five names that has to be indexed in all records in which the document must be indexed $ 0.25;

(3) Certified Papers (Sec. 118.014):

(A) for the clerk's certificate $ 5.00;

(B) printed on paper, plus a fee for each page or part of a page $ 1.00;

(C) that is a paper document converted to electronic format, for each page or part of a page $1;

(D) that is an electronic copy of an electronic document:

(i) for each document up to 10 pages in length $1;

(ii) for each page or part of a page of a document over 10 pages $0.10;

(4) Noncertified Papers (Sec. 118.0145):

(A) printed on paper, for each page or part of a page $ 1.00;

(B) that is a paper document converted to electronic format, for each page or part of a page $1;

(C) that is an electronic copy of an electronic

document, except for real property records:

(i) for each document up to 10 pages in length $1;

(ii) for each page or part of a page of a document over 10 pages $0.10;

(5) Birth or Death Certificate (Sec. 118.015) same as state registrar;

(6) Bond Approval (Sec. 118.016) $ 5.00;

(7) Marriage License (Sec. 118.018) $60.00;

(8) Declaration of Informal Marriage (Sec. 118.019) $25.00;

(9) Brand Registration (Sec. 118.020) $ 5.00;

(10) Oath Administration (Sec. 118.021) $ 1.00.

(b) The county clerk may set and collect the following fee from any person:

(1) Returned Check (Sec. 118.0215) . . . . . not less than $15 or more than $30

(2) Records Management and Preservation Fee (Sec. 118.0216) . . . . . not more than $10

(3) Mental Health Background Check for License to Carry a Handgun (Sec. 118.0217) . . . . . not more than $2

(4) Marriage License for Out-of-State Applicants (Sec. 118.018) $100

(c) The clerk shall charge reasonable fees for performing other duties prescribed or authorized by statute for which a fee is not prescribed by this subchapter.

(d) The county clerk may not charge the United States Immigration and Naturalization Service a fee for a copy of any document on file or of record in the clerk's office relating to an individual's criminal history, regardless of whether the document is certified.

(e) A county clerk who provides a copy in a format other than paper of a record maintained by the clerk, including real property records, shall provide the copy and charge a fee in accordance with Sections 552.231 and 552.262, Government Code.

(f) The county clerk of a county shall, if the commissioners court of the county adopts the fee as part of the county's annual budget, collect the following fee from any person:

(1) Records Archive Fee (Sec. 118.025) . . . . . not more than $10

(2) Records Technology and Infrastructure Fee (Sec.

118.026) $2.00

(g) The county clerk of a county shall, if the commissioners court of the county adopts the fee, collect the following fee from any person:

Real Property Records Filing (Sec. 118.0131) . . . . . not more than $10

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 18(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 587, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 451, Sec. 4, eff; Acts 1993, 73rd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd., ch. 465, Sec. 2, eff. Aug. 30, 1993; Sept. 1, 1993; Acts 1999, 76th Leg., ch. 185, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1400, Sec. 1, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 794, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1155, Sec. 2, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 413, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 974, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1275, Sec. 2(105), (106), 3(31), eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 804 (S.B. 526), Sec. 7, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1216 (H.B. 950), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 327 (H.B. 2685), Sec. 3, eff. September 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 927 (H.B. 1513), Sec. 1.04, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 927 (H.B. 1513), Sec. 2.04, eff. September 1, 2019.

Acts 2015, 84th Leg., R.S., Ch. 379 (H.B. 1062), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 31(a), eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 32(a), eff. September 1, 2019.

Acts 2015, 84th Leg., R.S., Ch. 985 (S.B. 1964), Sec. 5, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 695 (H.B. 555), Sec. 3, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1227 (S.B. 658), Sec. 5, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 16, eff. January 1, 2024.

Acts 2025, 89th Leg., R.S., Ch. 838 (S.B. 1547), Sec. 1, eff. June 20, 2025.

Acts 2025, 89th Leg., 2nd C.S., Ch. 7 (H.B. 16), Sec. 7.21, eff. December 4, 2025.

Sec. 118.012. PERSONAL PROPERTY RECORDS FILING. (a) The fee for "Personal Property Records Filing" under Section 118.011 is for filing or filing and registering, including indexing, in the personal property, chattels, or personal records in the office of the county clerk a document that is authorized or required to be filed in those records.

(b) The fee does not apply to:

(1) notary public records;

(2) marriage records;

(3) vital statistics records;

(4) documents filed in the records of county civil or criminal courts or probate courts;

(5) documents filed and recorded in the real property records in the office of the county clerk; or

(6) instruments for which the filing fee is fixed by the Business & Commerce Code.

(c) This fee is in addition to any other specific fee provided for by other statute.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.013. REAL PROPERTY RECORDS FILING. (a) The fee for "Real Property Records Filing" under Section 118.011 is for filing and recording, including indexing, in the real property records in the office of the county clerk a document that is authorized or required to be filed in those records.

(b) A county clerk who files, registers, or records an instrument by manual copying instead of copying by photocopy, photostating, or microphotographic process may substitute for the

prescribed page fee a fee of 20 cents per 100 words for each page having more than 500 words.

(c) The fee does not apply to:

(1) map records;

(2) condominium records;

(3) notary public records;

(4) marriage records;

(5) vital statistics records;

(6) documents filed in the records of county civil or criminal courts or probate courts; or

(7) personal property, chattels, and personal records in the office of the county clerk.

(d) The fee is in addition to any other specific fee provided for by other statute.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.0131. OPTIONAL RECORDING FEES FOR COURT FACILITIES: HIDALGO COUNTY AND CAMERON COUNTY. The county clerk of Hidalgo County and the county clerk of Cameron County may assess an additional fee not to exceed $10 for real property records filing to fund the construction, renovation, or improvement of court facilities, if authorized by the commissioners court of the county.

Added by Acts 2015, 84th Leg., R.S., Ch. 985 (S.B. 1964), Sec. 6, eff. June 19, 2015.

Sec. 118.0135. WAIVER OF REAL PROPERTY FILING FEES. (a) The commissioners court may direct the county clerk to waive fees for the filing of real property records under this subchapter for a person who is buying or improving the person's home with assistance from a federal or state grant or aid program that promotes home ownership or home improvement for persons of low or moderate income.

(b) The commissioners court shall specify the types of grant or aid programs that qualify a person for a fee waiver under this section and may limit the waiver to only certain programs.

Added by Acts 1999, 76th Leg., ch. 108, Sec. 1, eff. May 17, 1999.

Sec. 118.014. CERTIFIED PAPERS. (a) The fees for "Certified Papers" under Section 118.011 are for the county clerk's certificate that shall be placed on each page or part of a page, and a fee for copying each page or part of a page, of a notice, statement, license, or document that the clerk is authorized or required to issue. The fees must be paid at the time the order is placed.

(b) The fee does not apply to:

(1) a certified document for the issuance of which this subchapter prescribes another fee;

(2) a certified copy of map records or condominium records; or

(3) a license for which the fee for issuance is specifically provided by other statute.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 451, Sec. 1, eff. Sept. 1, 1993.

Sec. 118.0145. NONCERTIFIED PAPERS. (a) The fee for "Noncertified Papers" under Section 118.011 is for issuing a noncertified copy of each page or part of a page of a document. The fee must be paid at the time the order is placed.

(b) A county clerk may waive or reduce the fee provided in Section 118.011 for issuing a noncertified copy of a page or a portion of a page of a document if the document:

(1) involves a matter relating to family law, including a divorce decree; or

(2) is the record of a judgment in a misdemeanor case.

Added by Acts 1993, 73rd Leg., ch. 554, Sec. 2, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 764, Sec. 4, eff. Aug. 28, 1995.

Sec. 118.015. BIRTH OR DEATH CERTIFICATE. (a) The fee for "Birth or Death Certificate" under Section 118.011 is for issuing a certified copy of a birth certificate or death certificate and is the same as the fee charged under Subchapter C, Chapter 191, Health and Safety Code, by the state registrar of vital statistics and the local registrar of births and deaths.

(b) A county clerk who collects a fee under this section for a certified copy of a birth certificate shall deposit the fee into the

county treasury. The state's portion of the fee shall be sent to the comptroller as provided by Subchapter B, Chapter 133.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(68), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 305, Sec. 3, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 209, Sec. 74(a), eff. Jan. 1, 2004.
Amended by:
Acts 2005, 79th Leg., Ch. 263 (H.B. 2962), Sec. 4, eff. May 30, 2005.

Sec. 118.016. BOND APPROVAL. The fee for "Bond Approval" under Section 118.011 is for approving bonds other than notarial bonds and bonds required to be approved in a county civil or criminal court or in a probate court. The fee must be paid at the time of approval.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.018. MARRIAGE LICENSE. (a) The fee for "Marriage License" under Section 118.011 is for issuing a marriage license. The fee must be paid at the time the license is issued, except as provided by Subsection (b-1).

(b) The fee includes every service relating to issuance of the license, including preparing the application, filing health certificates, administering oaths, filing waivers and orders of the county judge, and issuing and recording all papers including the return of the license.

(b-1) The county clerk shall issue a marriage license without collecting a marriage license fee from an applicant who:

(1) completes a premarital education course described by Section 2.013, Family Code;

(2) provides to the county clerk a premarital education course completion certificate indicating completion of the premarital education course not more than one year before the date the marriage license application is filed with the clerk; and

(3) provides proof satisfactory to the county clerk that the applicant is a resident of this state.

(c) A person applying for a marriage license may make a voluntary contribution of $5 to promote healthy early childhood by

supporting the Texas Home Visiting Program administered by the Office of Early Childhood Coordination of the Health and Human Services Commission. A county clerk shall collect the additional voluntary contribution under this section.

(d) If neither applicant for a marriage license provides proof satisfactory to the county clerk that the applicant is a resident of this state, the county clerk may collect an additional fee of $100 for issuing the marriage license.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 185, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 209, Sec. 75(a), eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 327 (H.B. 2685), Sec. 4, eff. September 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 327 (H.B. 2685), Sec. 6, eff. September 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 820 (S.B. 1836), Sec. 4, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 695 (H.B. 555), Sec. 5, eff. June 12, 2017.

Sec. 118.019. DECLARATION OF INFORMAL MARRIAGE. The fee for "Declaration of Informal Marriage" under Section 118.011 is for all services rendered in connection with the execution of a declaration of informal marriage under Section 1.92, Family Code. The fee shall be collected at the time the service is rendered.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.020. BRAND REGISTRATION. The fee for "Brand Registration" under Section 118.011 is for registering a brand, including indexing, searching the records, and issuing the certificate.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.021. OATH ADMINISTRATION. (a) The fee for "Oath

Administration" under Section 118.011 is for administering an oath with or without the seal of the clerk.

(b) The fee does not apply to oaths required to be administered in performing a duty as clerk of county civil or criminal courts or as clerk of a probate court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.0215. RETURNED CHECK. The fee for "Returned Check" under Section 118.011 is for a check that is presented to the county clerk in payment of taxes or any other item the person owes to the county and is returned by the depository bank or any other financial institution because of:

(1) insufficient funds to cover the check;

(2) a closed account;

(3) an unauthorized signature;

(4) a check drawn on uncollected funds; or

(5) any other reason considered to be the fault of the drawer.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 18(c), eff. Aug. 28, 1989.

Sec. 118.0216. RECORDS MANAGEMENT AND PRESERVATION. (a) The fee for "Records Management and Preservation" under Section 118.011 is for the records management and preservation services performed by the county clerk after the filing and recording of a document in the records of the office of the clerk.

(b) The fee must be paid at the time of the filing of the document.

(c) The fee shall be deposited in a separate records management and preservation account in the general fund of the county.

(d) The fee may be used only to provide funds for specific records management and preservation, including for automation purposes.

(e) All expenditures from the records management and preservation account shall comply with Subchapter C, Chapter 262.

Added by Acts 1991, 72nd Leg., ch. 587, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 794, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 540 (S.B. 1574), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 330 (H.B. 2716), Sec. 1, eff. June 17, 2011.

Sec. 118.0217. MENTAL HEALTH BACKGROUND CHECK. (a) The fee for a "mental health background check for license to carry a handgun" is for a check, conducted by the county clerk at the request of the Texas Department of Public Safety, of the county records involving the mental condition of a person who applies for a license to carry a handgun under Subchapter H, Chapter 411, Government Code. The fee, not to exceed $2, will be paid from the application fee submitted to the Department of Public Safety according to Section 411.174(a)(6), Government Code.

(b) This section and Section 118.011(b)(3) do not affect the procedures for access to court records prescribed by Section 571.015, Health and Safety Code.

Added by Acts 1999, 76th Leg., ch. 1400, Sec. 2, eff. June 19, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 33, eff. January 1, 2016.

Sec. 118.022. DISPOSITION OF MARRIAGE LICENSE AND DECLARATION FEES. (a) If the county clerk collects a fee for issuing a marriage license, the county clerk shall deposit, as provided by Subchapter B, Chapter 133:

(1) $20 of each fee collected for issuing a marriage license or $12.50 of each fee for recording a declaration of informal marriage to be sent to the comptroller and deposited as provided by Subsection (b);

(2) $10 of each fee collected for issuing a marriage license to be sent to the comptroller and deposited as provided by Subsection (c); and

(3) if applicable, the $5 voluntary contribution collected to promote healthy early childhood by supporting the Texas Home Visiting Program administered by the Office of Early Childhood

Coordination of the Health and Human Services Commission to be sent to the comptroller and deposited as provided by Subsection (d).

(b) The comptroller shall deposit the money received under Subsection (a)(1) to the credit of the child abuse and neglect prevention trust fund account established under Section 137.054, Human Resources Code.

(c) The comptroller shall deposit the money received under Subsection (a)(2) to the credit of the family trust fund account established under Section 2.014, Family Code.

(d) The comptroller shall deposit the money received under Subsection (a)(3) in the Texas Home Visiting Program trust fund under Section 523.0306, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 957, Sec. 7, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 76(a), eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 327 (H.B. 2685), Sec. 5, eff. September 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 820 (S.B. 1836), Sec. 5, eff. June 14, 2013.

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.143, eff. April 1, 2025.

Acts 2023, 88th Leg., R.S., Ch. 1033 (S.B. 24), Sec. 15, eff. September 1, 2023.

Sec. 118.023. FEES FOR EX OFFICIO SERVICES. (a) If the county clerk receives fees for ex officio services or for other public services not otherwise provided for, the commissioners court shall set the fees. The fees shall be paid quarterly out of the county treasury on the order of the commissioners court.

(b) A county clerk may not be compelled to file or record any instrument or writing authorized or required to be recorded until payment for all fees has been tendered. This provision does not apply to papers or instruments filed or recorded in suits pending in county court.

(c) In this section, "ex officio services" includes services in relation to roads, bridges, and ferries; issuing and taking receipts for jury scrip or county orders for payment; services in habeas

corpus cases; making out bar dockets; keeping records of trust funds; filing and docketing all papers for the commissioners court; keeping road overseers' books and lists of hands; recording all collection returns of delinquent insolvents; recording county treasurer's reports; recording reports of justices of the peace; recording reports of animals slaughtered; and services in connection with elections.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 27, eff. September 1, 2011.

Sec. 118.024. FREE ACCESS TO RECORDS. (a) This subchapter does not limit or deny any person full and free access to any document referred to in this subchapter. A person is entitled to read, examine, and copy from those documents or from any microfilm or other photographic image of the documents.

(b) A person may exercise the right provided by this section without paying any charge under the reasonable rules of the county clerk at all reasonable times during the hours in which the clerk's office is open to the public.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.025. COUNTY CLERK'S RECORDS ARCHIVE. (a) In this section:

(1) "Deterioration" means any naturally occurring process or a natural disaster that results in the destruction or partial destruction of a public document.

(2) "Preservation" means any process that:

(A) suspends or reduces the deterioration of public documents; or

(B) provides public access to the public documents in a manner that reduces the risk of deterioration, excluding providing public access to public documents indexed geographically.

(3) "Public document" means any instrument, document, paper, or other record that the county clerk is authorized to accept for filing or maintaining.

(4) Repealed by Acts 2005, 79th Leg., Ch. 804, Sec. 7, eff. June 17, 2005.

(5) "Restoration" means any process that permits the visual enhancement of a public document, including making the document more legible.

(b) The commissioners court of a county may adopt a records archive fee under Section 118.011(f) as part of the county's annual budget. The fee must be set and itemized in the county's budget as part of the budget preparation process. The fee for "Records Archive" under Section 118.011(f) is for the preservation and restoration services performed by the county clerk in connection with maintaining a county clerk's records archive.

(c) The fee must be paid at the time a person, excluding a state agency, presents a public document to the county clerk for recording or filing.

(d) The fee shall be deposited in a separate records archive account in the general fund of the county. Any interest accrued remains with the account.

(e) The funds generated from the collection of a fee under this section may be expended only for the preservation and restoration of the county clerk's records archive. The county clerk shall designate the public documents that are part of the records archive for purposes of this section. The designation of public documents by the county clerk under this subsection is subject to approval by the commissioners court in a public meeting during the budget process.

(f) The funds may not be used to purchase, lease, or develop computer software to geographically index public records, excluding indexing public records by lot and block description as provided by Section 193.009(b)(4).

(g) Before collecting the fee under this section, the county clerk shall prepare an annual written plan for funding the preservation and restoration of the county clerk's records archive. The commissioners court shall publish notice of a public hearing on the plan in a newspaper of general circulation in the county not later than the 15th day before the date of the hearing. After the public hearing, the plan shall be considered for approval by the commissioners court. Funds from the records archive account may be expended only as provided by the plan. All expenditures from the records archive account shall comply with Subchapter C, Chapter 262. The hearing may be held during the budget process. After

establishing the fee, the plan may be approved annually during the budget process.

(h) If a county charges a fee under this section, a notice shall be posted in a conspicuous place in the county clerk's office. The notice must state the amount of the fee in the following form: "THE COMMISSIONERS COURT OF _____ COUNTY HAS DETERMINED THAT A RECORDS ARCHIVE FEE OF $_____ IS NEEDED TO PRESERVE AND RESTORE COUNTY RECORDS."

(i) The fee is subject to approval by the commissioners court in a public meeting during the budget process.

(j) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 330, Sec. 3, eff. June 17, 2011.

(k) Repealed by Acts 2005, 79th Leg., Ch. 804, Sec. 7, eff. June 17, 2005.

Added by Acts 2001, 77th Leg., ch. 794, Sec. 4, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 974, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1275, Sec. 3(32), eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 804 (S.B. 526), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 804 (S.B. 526), Sec. 7, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 330 (H.B. 2716), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 330 (H.B. 2716), Sec. 3, eff. June 17, 2011.

Sec. 118.026. FEE FOR COUNTY RECORDS TECHNOLOGY AND INFRASTRUCTURE IN CERTAIN COUNTIES. (a) The commissioners court of a county that borders the United Mexican States and the Gulf of Mexico may adopt a records technology and infrastructure fee as part of the county's annual budget. The fee must be set and itemized in the county's budget as part of the budget preparation process.

(b) The fee must be paid at the time a person pays a fee under Section 118.0216 or, if applicable, Section 118.025.

(c) The fee shall be deposited in a separate records technology and infrastructure account in the general fund of the county. Any interest accrued remains with the account.

(d) The funds generated from the collection of a fee under this section may be used only for technology and infrastructure for the maintenance of county records and the operation of the county records system.

(e) The fee is subject to approval by the commissioners court in a public meeting during the budget process.

Added by Acts 2015, 84th Leg., R.S., Ch. 379 (H.B. 1062), Sec. 3, eff. September 1, 2015.

SUBCHAPTER C. FEES OF CLERK OF COUNTY COURT

Sec. 118.051. CLERICAL DUTIES. The fees listed in this subchapter for county civil court dockets under Section 118.052(1) and county probate court dockets under Section 118.052(2) are fees for all clerical duties performed in connection with the docket, including:

(1) filing, registering or recording, docketing, and taxing costs for an application, will, complaint, petition, return, document, or proceeding;

(2) issuing and recording the return of a citation, notice, subpoena, commission to take depositions, execution while the docket is still open (civil docket), garnishment before judgment (civil docket), order, writ, process, or any other document authorized or required to be issued by the clerk on which a return must be recorded;

(3) attendances in court as clerk of the court;

(4) impaneling a jury (civil docket);

(5) swearing witnesses;

(6) approving bonds involved in court action; and

(7) administering oaths.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 96 (H.B. 1295), Sec. 1, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.02, eff. January 1, 2022.

Sec. 118.052. FEE SCHEDULE. Each clerk of a county court shall

collect the following fees for services rendered to any person:

(1) CIVIL COURT ACTIONS

(A) Preparation of the clerk's record of transfer under Sections 33.105 and 1023.006, Estates Code, Section 155.207, Family Code, and Sections 51.3071 and 51.403, Government Code:

(i) for the clerk's transfer certificate and index $5;

(ii) for each page or part of a page of a case record up to 10 pages in length $1.00;

(iii) for each page or part of a page of a case record over 10 pages $0.10;

(B) Services Rendered After Judgment in Original Action (Sec. 118.0545):

(i) Abstract of judgment . . . $ 8.00;

(ii) Execution, order of sale, writ, or other process . . . $ 8.00;

(2) PROBATE COURT ACTIONS

(A) Services in Pending Probate Action (Sec. 118.056):

(i) Filing an inventory and appraisement as provided by Section 118.056(d) . . . $25.00;

(ii) Approving and recording bond . . . $ 5.00;

(iii) Administering oath . . . $ 2.00;

(iv) Filing annual or final account of estate . . . $25.00;

(v) Filing application for sale of real or personal property . . . $25.00;

(vi) Filing annual or final report of guardian of a person . . . $10.00;

(vii) Filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first, if more than 25 pages . . . $25.00;

(B) Claim Against Estate (Sec. 118.058) . . . $10.00;

(C) Preparation of the clerk's record of transfer under Sections 33.105 and 1023.006, Estates Code, Section 155.207, Family Code, and Sections 51.3071 and 51.403, Government Code:

(i) for the clerk's transfer certificate and index $5;

(ii) for each page or part of a page of a case

record up to 10 pages in length $1.00;

(iii) for each page or part of a page of a case record over 10 pages $0.10;

(3) OTHER FEES

(A) Issuing Document (Sec. 118.059):

(i) original document and one copy . . . $ 8.00;

(ii) each additional set of an original and one copy . . . $ 8.00;

(B) Certified Papers (Sec. 118.060):

(i) for the clerk's certificate . . . $ 5.00;

(ii) printed on paper, plus a fee per page or part of a page of . . . $ 1.00;

(iii) that is a paper document converted to electronic format, for each page or part of a page $1;

(iv) that is an electronic copy of an electronic document:

(a) for each document up to 10 pages in length $1;

(b) for each page or part of a page of a document over 10 pages $0.10;

(C) Noncertified Papers (Sec. 118.0605):

(i) printed on paper, for each page or part of a page . . . $ 1.00;

(ii) that is a paper converted to electronic format, for each page or part of a page . . . $ 1.00;

(iii) that is an electronic copy of an electronic document:

(a) for each document up to 10 pages in length . . . $ 1.00;

(b) for each page or part of a page of a document over 10 pages . . . $ 0.10;

(D) Letters Testamentary, Letter of Guardianship, Letter of Administration, or Abstract of Judgment (Sec. 118.061) . . . $ 2.00;

(E) Deposit and Safekeeping of Wills (Sec. 118.062) . . . $ 5.00;

(F) Mail Service of Process (Sec. 118.063) . . . same as sheriff;

(G) Searching files or records to locate a cause when the docket number is not provided . . . $ 5.00;

(H) Records Technology and Infrastructure Fee if authorized by the commissioners court of the county (Sec. 118.026) . . . $ 2.00;

(I) Preparation of the clerk's record for appeal, per page or part of a page . . . $1.00.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 19(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1080, Sec. 7, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 587, Sec. 3, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 554, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 675, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 764, Sec. 3, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1001, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1233 (H.B. 1404), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 96 (H.B. 1295), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 399 (S.B. 819), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 4, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 379 (H.B. 1062), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 654 (H.B. 2182), Sec. 6, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 701 (H.B. 2207), Sec. 12, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.02, eff. January 1, 2022.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 17, eff. January 1, 2024.

Sec. 118.0525. INCREASED FEE FOR NONCOMPLIANCE WITH DOCUMENT SPECIFICATIONS. If a legal paper presented to a county clerk for filing or for recording does not comply with the specifications prescribed by Section 191.007, the filing fee or recording fee for the paper is increased as provided by that section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 20(b), eff. Aug. 28, 1989.

Sec. 118.0526. COPIES OF COURT RECORDS PRESERVED ONLY ON MICROFILM OR BY ELECTRONIC METHOD. (a) On the written request of a party in an action, the clerk of a county court shall provide the court with a copy of a motion, order, or other pleading in the action that is preserved only on microfilm or by other electronic means. The request must specify the document sought and the approximate date that the document was filed.

(b) The county clerk may not charge a fee for a copy made under this section.

Added by Acts 1999, 76th Leg., ch. 1356, Sec. 1, eff. Sept. 1, 1999.

Sec. 118.0545. SERVICES RENDERED AFTER JUDGMENT IN ORIGINAL ACTION. (a) The fees for "Services Rendered After Judgment in Original Action" under Section 118.052(1) are for services rendered after judgment in an original action filed in a county civil court.

(b) The fee for an "Abstract of judgment" under Section 118.052(1) is for issuing an abstract of judgment.

(b-1) The fee for "Preparation of the clerk's record for appeal" under Section 118.052(1) is for preparation of the clerk's record for appeal.

(c) The fee for an "Execution, order of sale, writ, or other process" under Section 118.052(1) is for issuing and recording the return on any of those documents. The fee applies only to a writ or process for the issuance of which another fee is not provided by this subchapter.

(d) The fee is charged of the party requesting the service and is due at the time the service is requested.

(e) In this section, "original action" includes an appeal from a justice of the peace or a corporation court and a transfer of an action from another jurisdiction.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 19(a), eff. Aug. 28, 1989. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.03, eff. January 1, 2022.

Text of section as amended by Acts 1999, 76th Leg., ch. 66, Sec. 1

Sec. 118.056. SERVICES IN PENDING PROBATE ACTION. (a) Except as provided by Subsection (d), the fees for "Services in Pending Probate Action" under Section 118.052(2) are for services in an action in an open probate docket rendered after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first.

(b) The fee for filing a document also applies to each page or part of a page for the filing of a document or exhibit filed by a movant after the filing of an original answer or response, after the filing of an order approving the inventory and appraisement, or after the 120th day after the date of the initial filing of the action, whichever occurs first, and before the filing of an adverse action, contest, suit, or pleading seeking affirmative relief.

(c) Each fee shall be paid at the time of the filing or the rendering of the service and is in addition to other fees prescribed by Section 118.052.

(d) The fee for filing an inventory and appraisement under Section 118.052(2)(B)(i) applies only if the instrument is filed after the 90th day after the date the personal representative has qualified to serve or, if the court grants an extension under Section 309.051, Estates Code, after the date of the extended deadline specified by the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 66, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 399 (S.B. 819), Sec. 2, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 20.021, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.04, eff. January 1, 2022.

Sec. 118.058. CLAIM AGAINST ESTATE. (a) The fee for "Claim Against Estate" under Section 118.052(2) is for clerical duties in connection with filing and entering a claim against an estate.

(b) The fee must be paid by the claimant at the time the claim

is filed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.059. ISSUING DOCUMENT. (a) The fee for "Issuing Document" under Section 118.052(3) is for issuing an original document and one copy and includes recording the return of the document.

(b) The fee for issuing for the same action at the same time more than one set of an original and one copy of the same document includes recording the return of the document. The fee must be paid at the time the order is placed.

(c) In this section, "document" includes a subpoena, citation, notice, commission to take depositions, execution, order, writ, process, or other instrument or paper authorized or required to be issued by the clerk.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 451, Sec. 2, eff. Sept. 1, 1993. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.05, eff. January 1, 2022.

Sec. 118.060. CERTIFIED PAPERS, NO RETURN REQUIRED. (a) The fees for "Certified Papers" under Section 118.052(3) are for the county clerk's certificate that shall be placed on each page or part of a page, and a fee for copying each page or part of a page, of a notice, statement, transcript, or other document authorized or required to be issued by the clerk.

(b) The fee must be paid at the time the order is placed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 451, Sec. 3, eff. Sept. 1, 1993.

Sec. 118.0605. NONCERTIFIED PAPERS. (a) The fee for "Noncertified Papers" under Section 118.052(3) is for issuing a noncertified copy of each page or part of a page of a document.

(b) The fee must be paid at the time the order is placed.

Added by Acts 1993, 73rd Leg., ch. 554, Sec. 4, eff. Sept. 1, 1993.

Sec. 118.061. LETTERS AND ABSTRACTS. The fee for "Letters Testamentary, Letter of Guardianship, Letter of Administration, or Abstract of Judgment" under Section 118.052(3) is for the issuing of any of those documents.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.062. DEPOSIT AND SAFEKEEPING OF WILLS. The fee for "Deposit and Safekeeping of Wills" under Section 118.052(3) is for receiving and keeping wills deposited for safekeeping. The fee must be paid at the time the will is deposited with the county clerk.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 701 (H.B. 2207), Sec. 13, eff. September 1, 2017.

Sec. 118.063. MAIL SERVICE OF PROCESS. The fee for "Mail Service of Process" under Section 118.052(3) is for the clerk's service of process by certified or registered mail. The fee is the same amount that sheriffs and constables are authorized to charge under Section 118.131.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.065. FREE ACCESS TO RECORDS. (a) This subchapter does not limit or deny any person full and free access to any document referred to in this subchapter. A person is entitled to read, examine, and copy from those documents or from any microfilm or other photographic image of the documents.

(b) A person may, without paying any charge, exercise the right provided by this section under the reasonable rules of the county clerk at all reasonable times during the hours in which the clerk's office is open to the public.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.066. PROHIBITED FEES. A county clerk is not entitled to a fee for:

(1) the examination of a paper or record in the clerk's office;

(2) filing any process or document the clerk issues that is returned to court;

(3) a motion or judgment on a motion for security for costs; or

(4) taking or approving a bond for costs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 32, eff. Sept. 1, 1993.

Sec. 118.070. FEE FOR SEARCH OF RECORDS. The clerk of a county court may collect a fee for searching files or records to locate a cause when the docket number is not provided.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.06, eff. January 1, 2022.

SUBCHAPTER D. FEES OF COUNTY JUDGE

Sec. 118.101. FEE SCHEDULE. The county judge shall collect the following fees in probate matters:

(1) Probate of a will $2.00

(2) Granting letters testamentary, letter of guardianship, or letter of administration $2.00

(3) Order of sale $2.00

(4) Approval and confirmation of sale $2.00

(5) Decree refusing order of sale or confirmation of sale $2.00

(6) Decree of partition and distribution $2.00

(7) Decree approving or setting aside the report of a commissioner of partition and distribution $2.00

(8) Decree removing an executor, administrator or guardian (with the fee to be paid by that executor, administrator, or guardian) $1.00

(9) Fiat or certificate $2.00

(10) Continuance $0.10

(11) Orders for which another fee is not prescribed $2.00

(12) Administering oath or affirmation with certificate and seal $2.00

(13) Administering oath or affirmation without certificate and seal $0.25

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1080, Sec. 8, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 379 (H.B. 1062), Sec. 6, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.07, eff. January 1, 2022.

SUBCHAPTER E. FEES OF JUSTICE OF THE PEACE

Sec. 118.121. FEE SCHEDULE. A justice of the peace shall collect the following fees for services rendered after judgment (Sec. 118.123):

(1) Transcript $10.00

(2) Abstract of judgment $5.00

(3) Execution, order of sale, writ of restitution, or other writ or process . . . $5.00 per page

(4) Certified copy of court papers . . . $2.00 for first page

. . . $0.25 for each additional page

(5) Issuing other document (no return required) . . . $1.00 for first page

. . . $0.25 for each additional page

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 19(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1080, Sec. 9, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 977, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 552 (S.B. 1412), Sec. 2, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.08, eff. January 1, 2022.

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 13.003(a), eff. September 1, 2025.

Sec. 118.123. FEES AFTER ENTRY OF JUDGMENT. (a) The fees for "Services rendered after judgment" under Section 118.121 apply to a civil matter in a justice court or small claims court.

(b) The fee for a "Transcript" under Section 118.121(1) is for making and certifying a transcript of the entries on a docket and, in the case of an appeal or certiorari, for filing the transcript with the original papers of the case in the proper court.

(c) The fee for an "Abstract of judgment" under Section 118.121(2) is for issuing an abstract of judgment.

(d) The fee for an "Execution, order of sale, writ of restitution, or other writ or process" under Section 118.121(3) is for issuing and recording the return on any of those documents. The fee applies only to a writ or process for the issuance of which another fee is not provided by this subchapter.

(e) The fee for "Issuing other document (no return required)" under Section 118.121(5) is for issuing a certificate, notice, statement, or any other document, except for a certified copy of court papers, that a justice of the peace is authorized or required to issue on which a return is not to be recorded. The fee must be paid at the time the order is placed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 19(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1080, Sec. 9, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(99), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 977, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 13.003(b), eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 13.003(c), eff. September 1, 2025.

Sec. 118.1235. FEE FOR CERTIFIED COPY. The fee for "Certified copy of court papers" under Section 118.121(4) is for issuing a certified copy of a paper filed in a justice court or a small claims

court. The fee must be paid at the time the order is placed.

Added by Acts 1997, 75th Leg., ch. 977, Sec. 3, eff. Sept. 1, 1997.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 13.003(d), eff. September 1, 2025.

Sec. 118.124. PROHIBITED FEES. A justice of the peace is not entitled to a fee for:

(1) the examination of a paper or record in the justice's office;

(2) filing any process or document the justice issues that is returned to court;

(3) a motion or judgment on a motion for security for costs;

(4) taking or approving a bond for costs; or

(5) the first copy of a document in a criminal case issued to:

(A) a criminal defendant in the case;

(B) an attorney representing a criminal defendant in the case; or

(C) a prosecuting attorney.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 33, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 205 (S.B. 409), Sec. 1, eff. May 27, 2009.

SUBCHAPTER F. FEES OF SHERIFF AND CONSTABLE

Sec. 118.131. FEES SET BY COMMISSIONERS COURT. (a) The commissioners court of a county may set reasonable fees to be charged for service of process, including service of writs, by the offices of the sheriff and constables.

(b) The commissioners court may not set fees higher than is necessary to pay the expenses of providing the services.

(c) The commissioners court may not set fees under this section more than once during any one-year period.

(d) The commissioners court must set the fees before October 1 of each year to be effective January 1 of the following year.

(e) A notice setting out the fees shall be posted in the same manner in which notices are posted under Section 81.007 and shall be posted in the offices of the county officials who are authorized to charge the fees.

(f) On or before October 15 of the year in which the fees are initially set, the commissioners court shall provide written notice of the amounts of the fees to the comptroller. If the commissioners court changes the amount of a fee set under this section, the commissioners court shall provide to the comptroller, on or before October 15 of the year in which the amount is changed, a written notice of the change in the amount of the fee. Before December 15 of each year, the comptroller shall compile the fee information provided by counties and send the compilation to:

(1) the commissioners court of each county in this state;

(2) any statewide association of counties or of officers of counties that requests in writing before December 15 to be informed; and

(3) the State Bar of Texas.

(g) A commissioners court that receives a notice under Subsection (f)(1) shall furnish the notice to its district clerk, county clerk, justices of the peace, sheriff, and constables.

(h) If the commissioners court does not set fees under this section, the fees for services by the offices of the sheriff and constables are those fees provided by law in effect for the preceding fiscal year.

(i) The commissioners court may not assess an applicant a fee in connection with the filing, serving, or entering of a protective order. A fee may not be charged to an applicant to dismiss, modify, or withdraw a protective order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 21(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 326, Sec. 1, eff. May 29, 1993; Acts 1995, 74th Leg., ch. 144, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 1024, Sec. 19, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 92 (H.B. 145), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 18, eff. January 1, 2024.

Sec. 118.132. SERVICE OF PROCESS FOR APPELLATE COURT. A sheriff shall collect the same fee for service of process issued by the supreme court or a court of appeals as the fee provided for service of process issued by a district court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.133. SHERIFF'S AND CONSTABLE'S RESPONSE TO FALSE ALARM IN POPULOUS COUNTY. (a) The commissioners court of a county with a population of more than 3.3 million by order may adopt a system by which the county charges a fee if the sheriff's or constable's office of the county responds to a security alarm and the emergency for which the alarm device was designed to give notice does not exist.

(b) The fee shall be charged to a person exercising control of the property on which the alarm device is installed.

(c) The commissioners court shall set the amount of the fee. The court may set a single fee that is charged for each response to a false alarm or may establish a fee structure under which different fees are charged according to the differing circumstances of each false alarm. However, the amount of a fee may not exceed the amount of the actual costs incurred by the sheriff's or constable's office in responding to the alarm.

(d) Fees collected under this Act shall be deposited in the county treasury to the credit of the general fund of the county.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 22(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 53, 54, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1296 (H.B. 2626), Sec. 1, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1296 (H.B. 2626), Sec. 2, eff. June 18, 2005.

Sec. 118.134. PAYMENT OF COSTS INCURRED FOR CARE OF CERTAIN PROPERTY. (a) A sheriff or constable may keep possession of property legally acquired until the party seeking to replevy the

property pays the officer's costs incurred for the storage, security, or management of the property.

(b) Subsection (a) of this section does not apply to costs incurred on property seized in conjunction with an offense alleged under the Penal Code, Code of Criminal Procedure, or Title 116, Vernon's Texas Civil Statutes, when the owner of the property is subsequently found to be not guilty of an offense or other proscribed activity described in those statutes, or if other charges whether criminal or civil are dropped.

Added by Acts 1991, 72nd Leg., ch. 749, Sec. 1, eff. Aug. 26, 1991.

SUBCHAPTER G. FEES OF COUNTY TREASURER

Sec. 118.141. FEE SCHEDULE. (a) The county treasurer, or another officer who receives revenue in place of the county treasurer, may collect the following fees for services rendered to any person:

(1) Returned check (Sec. 118.142) not less than $15.00 or more than $30.00

(2) copy of check or other record (Sec. 118.144) $ 1.00

(b) The county treasurer or another officer who receives revenue in place of the county treasurer may collect, from a person to whom the county issues a check, a fee for a stop-payment order as described by Section 118.143:

(1) in an amount equal to the stop-payment fee charged to the county by the county depositary bank; or

(2) in an amount not to exceed $20.00.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 30, Sec. 1, eff. Oct. 20, 1987; Acts 1995, 74th Leg., ch. 340, Sec. 1, eff. Sept. 1, 1995.

Sec. 118.142. RETURNED CHECK. The fee for "Returned check" under Section 118.141 is for a check that is presented to a county in payment of any service, fee, claim, registration, fine, or other cost of the county and is returned by the depository bank or another bank for any reason considered to be the fault of the drawer, including:

(1) insufficient funds to cover the check;

(2) closed account;
(3) unauthorized signature; or
(4) drawn on uncollected funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.143. STOP-PAYMENT ORDER. The fee for a "Stop-payment order" under Section 118.141 is for placement of a stop-payment order on a check issued by a county for which the county will be directly or indirectly charged by the depository bank or another bank.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.144. COPY OF CHECK OR OTHER RECORD. The fee for "Copy of check or other record" under Section 118.141 is for each copy made of a page or part of a page of records, orders, checks, or other papers on file or of record in the treasurer's office. The fee applies to both certified and uncertified copies.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 118.145. DISPOSITION OF FEES COLLECTED. The fees collected under this subchapter shall be deposited in the general fund of the county to the credit of the county treasurer fees of office account.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER H. FEES OF COUNTY SURVEYOR

Sec. 118.161. FEE SCHEDULE. A county surveyor shall collect the following fees:

(1) for recording the field notes and plat of a survey for a tract of land, providing copies of field notes, plats, or other papers or records, and certifying any copies, the same amount collected by the county clerk of the county as a filing fee;

(2) for surveying a tract of land or designating a homestead:

(A) the actual expenses incurred, including all expenses of making the survey, preparing a survey report, field notes, plat, and other documents required by law, and filing those documents in the records of the county surveyor or the General Land Office; and

(B) any fees for surveying services agreed on by the county surveyor and the person seeking the services; and

(3) for filing an application to purchase or lease a vacancy or for surveying a vacancy, the amounts provided by Subchapter E, Chapter 51, Natural Resources Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 991, Sec. 2, eff. Sept. 1, 1993.

SUBCHAPTER I. FEES OF COUNTY TAX ASSESSOR-COLLECTOR

Sec. 118.171. RETURNED CHECK. The county tax assessor-collector has the same authority to set and collect a fee for a check returned to the tax assessor-collector that the county clerk has under Sections 118.011 and 118.0215.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 18(d), eff. Aug. 28, 1989.

SUBCHAPTER Y. PENALTIES

Sec. 118.801. OVERCHARGING OF FEES; PENALTY. (a) An officer named in this chapter who, in bad faith, demands and receives a higher fee than authorized under this chapter or a fee that is not authorized under this chapter is liable to the aggrieved person for four times the amount unlawfully demanded and received.

(b) An officer who, in good faith, demands and receives a higher fee than authorized or a fee not authorized under this chapter is liable to the aggrieved person for the difference between the amount demanded and received and the amount of the fee authorized under this chapter.

(c) The demand for and receipt of a fee authorized by the legislature that is later determined by a court of competent jurisdiction to be unlawful is considered to be a good faith action by the officer.

(d) In this section, "bad faith" includes a demand that an officer makes with the knowledge that a fee is not authorized by law.

(e) The provisions of this section shall not affect the right of any party to recover attorney's fees, interest, or costs of court as provided by other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 34, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 142, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 119. COUNTY GOVERNMENT LIABILITY INSURANCE POOL

Sec. 119.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of trustees of the county government risk management pool.

(2) "Fund" means the county government risk management fund.

(3) "Plan" means the plan of operation of the county government risk management pool.

(4) "Pool" means the County Government Risk Management Pool created under this chapter.

(5) "Volunteer fire department" means a fire department that is operated on a not-for-profit basis.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 1056, Sec. 1, eff. Aug. 28, 1995.

Sec. 119.002. CREATION OF RISK MANAGEMENT POOL. (a) On the adoption of a resolution by the commissioners courts of at least 10 counties in this state, the County Government Risk Management Pool is created to insure each county in this state that purchases coverage in the pool against liability for the acts or omissions of that county and the officials and employees of that county under the law.

(b) Any county in this state that meets the criteria established by the pool in its plan of operation may purchase coverage from the pool. The county may use county funds to pay any fees, contributions, or premiums required to be a part of the pool and to obtain coverage through the pool.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 561, Sec. 4, eff. Aug. 30, 1993.

Sec. 119.003. ORGANIZATION OF POOL; TEMPORARY BOARD. On the creation of the pool, each commissioners court adopting a resolution to create the pool shall select one representative to meet with the representatives of the other counties adopting creation resolutions. At the meeting, the representatives shall adopt guidelines for developing an organizational plan for the pool and shall select nine persons from their number to serve as a temporary board of trustees for the pool.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 119.004. PLAN OF OPERATION. (a) Within 30 days after the date the temporary board is selected, the members of the temporary board shall meet and begin to prepare a detailed plan of operation for the pool. The plan may include any matters relating to the organization and operation of the pool and its finances but must include:

(1) the organizational structure of the pool, including the number, method of selection, and method of procedure and operation of the regular board of trustees for the pool;

(2) a summary of the method for managing and operating the pool;

(3) a description of the fees, contributions, or financial arrangements necessary to cover the initial expenses of the pool, with estimates supported by statistical data of the amounts of those fees, contributions, or other financial arrangements;

(4) underwriting standards and procedures for the evaluation of risks, which must provide that any county that applies shall be provided coverage for an initial period of at least one year, regardless of that county's loss history;

(5) procedures for the purchase of reinsurance;

(6) procedures for the processing and payment of claims;

(7) methods, procedures, and guidelines for:

(A) the establishment of premium rates;

(B) the limits of coverage available through the pool; and

(C) the management and investment of the county government risk management fund; and

(8) methods and procedures for defraying losses and

expenses of the pool.

(b) The temporary board shall complete the plan within 90 days after the date the temporary board is appointed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 119.005. BOARD OF TRUSTEES. (a) The board of trustees shall govern, administer, and operate the pool and the fund.

(b) Within 15 days after the date the plan is completed by the temporary board, the initial regular board must be selected and take office as provided by the plan. A person serving on the board who is a county officer or employee performs board duties as additional duties of the person's original office or employment. A member or employee of the board is not liable with respect to any claims for which coverage is provided by the pool or brought against any county covered by the pool.

(c) Each member and each employee of the board who has authority over money in the fund or over money collected or invested by the pool must execute a bond in an amount determined by the board, payable to the pool, and conditioned that the person will faithfully perform the person's duties. The cost of the bond shall be paid by the pool.

(d) The board shall determine premium rates and coverage limits to ensure that the pool and the fund are actuarially sound.

(e) The board may purchase reinsurance for any risks covered by the pool.

(f) The board may employ a fund manager and other persons necessary to carry out this chapter and the plan. The board may employ or contract with insurance carriers or other persons for underwriting, accounting, claims, and other services.

(g) The board may adopt any rules, exercise any powers, and enter into any contracts necessary to carry out this chapter and the plan.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 119.006. RISK MANAGEMENT FUND. (a) On taking office, the initial regular board shall create the county government risk management fund.

(b) The board shall credit to the fund:

(1) fees, contributions, and premiums collected by the pool;

(2) investments of money in the fund;

(3) interest earned on investments made by the pool; and

(4) any other income received by the pool from any sources.

(c) The board shall manage and invest the money in the fund in the manner provided by the plan. The money in the fund shall be used to pay liability claims and judgments against participating counties up to the limits of the coverage provided by the pool. Money in the fund also may be used to pay the administrative and management costs of the pool and the fund up to the limits provided by the plan.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 119.007. CERTAIN REQUIREMENTS FOR INITIAL COVERAGE; SURCHARGE. (a) To obtain coverage during the initial coverage period, the standards included in the plan may require a county to participate in a risk management appraisal and to adhere to the recommendations made in the appraisal. If the recommended risk management techniques do not sufficiently reduce losses to meet the pool's underwriting criteria within the initial coverage period, the county may be denied subsequent coverage by the pool.

(b) A surcharge may be applied to any risk covered during the initial period if the risk does not meet the basic underwriting criteria established by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 119.008. NOT INSURANCE; BOARD OF INSURANCE LACKS JURISDICTION. (a) The pool created under this chapter is not insurance for purposes of the Insurance Code and other laws of this state.

(b) The State Board of Insurance has no jurisdiction over the pool or over any other governmental insurance pool created under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 119.009. PARTICIPATION BY OTHER POLITICAL SUBDIVISIONS. (a) A political subdivision other than a county may participate in the County Government Risk Management Pool established under this chapter.

(b) A political subdivision participating in the pool under this section is entitled to the same coverage provided to a county and may participate under the same terms and conditions as a county.

Added by Acts 1993, 73rd Leg., ch. 561, Sec. 5, eff. Aug. 30, 1993.

Sec. 119.010. CERTAIN COVERAGE AUTHORIZED; DISTRICT JUDGES. The pool may provide coverage against liability for the acts or omissions of a district judge whose judicial district is located, in whole or in part, within the geographic boundaries of a county participating in the pool that arise in the course and scope of the judge's official duties as a judge. A county participating in the pool, a district judge from personal funds, or both the county and the judge, may pay the additional cost of this coverage.

Added by Acts 1995, 74th Leg., ch. 1056, Sec. 2, eff. Aug. 28, 1995.

Sec. 119.011. CERTAIN COVERAGE AUTHORIZED; VOLUNTEER FIRE DEPARTMENTS. The pool may provide coverage against liability for the acts or omissions of:

(1) a volunteer fire department that contracts with a county participating in the pool for the provision of fire protection or fire-fighting equipment under Subchapter A, Chapter 352;

(2) a volunteer for a fire department described by Subdivision (1), to the extent the acts or omissions arise in the course and scope of the volunteer's activities as a volunteer for the fire department; and

(3) a person described by Section 352.004(b).

Added by Acts 1995, 74th Leg., ch. 1056, Sec. 2, eff. Aug. 28, 1995.

Sec. 119.012. NOTICE OF CANCELLATION OR CHANGE OF COVERAGE.

(a) Except as provided by Subsection (b), cancellation of coverage for liability provided through the pool under this chapter other than cancellation for nonpayment of contribution, or any change to the terms or conditions of the coverage, may not take effect before the 60th day after the earlier of the date that written notice of the change is:

(1) delivered to the county judge or presiding officer of the governing body of each affected county or other political subdivision; or

(2) mailed, by certified mail, to the county judge or presiding officer of the governing body of each affected county or other political subdivision.

(b) Notice is not required for cancellation or a change to the terms or conditions of the coverage made:

(1) at the request of the affected county or other political subdivision; or

(2) by mutual agreement of the governing body, or authorized agent, of the affected county or other political subdivision and the pool if:

(A) the mutual agreement is evidenced by a writing; and

(B) not later than the 72nd hour before the governing body takes formal action with respect to the agreement, the writing described by Paragraph (A) is provided, electronically or by certified mail, to the county judge or presiding officer of the governing body of the political subdivision.

(c) The notice must be printed in at least 12-point bold-faced type and must specify the reasons for the cancellation or change.

(d) In the case of cancellation of the coverage, the notice must state that, on request of the affected county or other political subdivision, the pool shall refund to the county or political subdivision the pro rata unearned paid contribution of the county or political subdivision. This subsection does not apply if the refund is paid at the time the notice is made.

Added by Acts 1997, 75th Leg., ch. 1419, Sec. 1, eff. Sept. 1, 1997.

Sec. 119.013. QUALIFICATIONS OF ADMINISTRATOR. The individual responsible for administration of the pool, whether employed by the

pool or any other entity:

(1) must hold at least a bachelor's degree in a field relating to insurance, finance, business management, or law or hold the professional designation of:

(A) Chartered Property Casualty Underwriter granted by the American Institute for Property and Liability Underwriters;

(B) Certified Insurance Counselor granted by the Society of Certified Insurance Counselors; or

(C) Associate in Risk Management granted by the Insurance Institute of America;

(2) must have at least five years experience in administration of risk pools, commercial insurance production or management, or risk management; and

(3) during each calendar year, shall participate in a minimum of 20 hours of continuing education that:

(A) is acceptable to the board; and

(B) relates to the types of coverage provided by the pool, risk management, or administration of risk pools.

Added by Acts 1997, 75th Leg., ch. 1419, Sec. 1, eff. Sept. 1, 1997.

Sec. 119.014. APPLICATION REQUIREMENTS. The requirements of Section 119.012 shall apply to cancellation of, or any change to the terms or conditions of, a contractual obligation to indemnify for liability for the acts or omissions of a county or its officers and employees provided to any county through any intergovernmental risk-sharing pool or insurance coverage.

Added by Acts 1997, 75th Leg., ch. 1419, Sec. 1, eff. Sept. 1, 1997.

CHAPTER 120. ELECTION FOR REDUCTION OF FUNDING OR RESOURCES FOR CERTAIN PRIMARY LAW ENFORCEMENT AGENCIES

Sec. 120.001. APPLICABILITY. This chapter applies only to a county with a population of more than 1.2 million.

Added by Acts 2021, 87th Leg., R.S., Ch. 201 (S.B. 23), Sec. 1, eff. January 1, 2022.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 130, eff.

September 1, 2023.

Sec. 120.002. ELECTION REQUIRED. (a) Except as provided by Section 120.003, a county shall hold an election in accordance with this chapter if the county adopts a budget for a fiscal year that, compared to the budget adopted by the county for the preceding fiscal year:

(1) reduces for a law enforcement agency, excluding a 9-1-1 call center, with primary responsibility for policing, criminal investigation, and answering calls for service:

(A) for a fiscal year in which the overall amount of the budget is equal to or greater than the amount for the preceding fiscal year, the appropriation to the agency;

(B) for a fiscal year in which the overall amount of the budget is less than the amount for the preceding fiscal year, the appropriation to the agency as a percentage of the total budget;

(C) as applicable:

(i) if the county has not declined in population since the preceding fiscal year, the number of peace officer positions, excluding detention officer positions; or

(ii) if the county has declined in population since the preceding fiscal year, the number of peace officer positions, excluding detention officer positions, the law enforcement agency is authorized to employ per 1,000 county residents; or

(D) the amount of funding per peace officer for the recruitment and training of new peace officers to fill vacant and new peace officer positions in the agency; or

(2) reallocates funding or resources to another law enforcement agency.

(a-1) This subsection applies only to a county with a population of more than 3.3 million. A county shall hold an election in accordance with this chapter if the county adopts a budget or changes an adopted budget resulting in a budget for a fiscal year that, compared to the budget adopted by the county for the preceding fiscal year:

(1) has an effect described by Subsection (a);

(2) reallocates unspent funding that was appropriated to a law enforcement agency; or

(3) reallocates funding previously appropriated for a

specific law enforcement position to another agency.

(b) A county may not implement a proposed reduction or reallocation described by Subsection (a) or (a-1) until the county receives voter approval for the proposed reduction or reallocation at an election held for that purpose. The county may, at any time, order the election to be held on the 30th day after the date the county orders the election. Section 41.001, Election Code, does not apply to an election under this subsection.

(c) For purposes of this section, a county budget does not include:

(1) a one-time extraordinary expense, as determined by the comptroller, that is outside the normal costs of operating a law enforcement agency, including purchasing a fleet of law enforcement vehicles or constructing an additional training academy;

(2) revenues used to repay voter-approved bonded indebtedness incurred for a law enforcement purpose;

(3) detention officer compensation; or

(4) a donation or state or federal grant to the county's law enforcement agency.

Added by Acts 2021, 87th Leg., R.S., Ch. 201 (S.B. 23), Sec. 1, eff. January 1, 2022.
Amended by:

Acts 2025, 89th Leg., 2nd C.S., Ch. 13 (H.B. 192), Sec. 1, eff. December 4, 2025.

Sec. 120.003. DISASTER EXCEPTION. Section 120.002 does not apply to a county budget adopted for a fiscal year in which, or the two fiscal years following the fiscal year in which, a significant budget reduction from the preceding fiscal year was caused by a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, epidemic, or pandemic, in an area of the county that was the subject of a disaster declaration by the governor under Chapter 418, Government Code, or by the president of the United States.

Added by Acts 2021, 87th Leg., R.S., Ch. 201 (S.B. 23), Sec. 1, eff. January 1, 2022.

Sec. 120.004. BALLOT PROPOSITION REQUIREMENTS. A county holding an election under this chapter shall ensure that the ballot proposition for the election includes, as applicable:

(1) a detailed explanation of each proposed reduction;

(2) the amount of each proposed reduction;

(3) the recipient of reallocated funding or resources;

(4) the impact on the local tax rate, if any; and

(5) the expected length of time that the proposed reduction or reallocation will remain in effect.

Added by Acts 2021, 87th Leg., R.S., Ch. 201 (S.B. 23), Sec. 1, eff. January 1, 2022.

Sec. 120.005. USE OF PUBLIC MONEY FOR CAMPAIGN PROHIBITED. A county holding an election under this chapter may not use public money on promotional campaigns or advocacy related to the proposed reduction or reallocation. This section may not be construed to prevent a county official or employee from communicating factual information about a proposed budget or the reasoning behind a proposed budget to the voters in the county.

Added by Acts 2021, 87th Leg., R.S., Ch. 201 (S.B. 23), Sec. 1, eff. January 1, 2022.

Sec. 120.006. COMPLAINT. (a) A person who believes that a county has implemented a proposed reduction or reallocation described by Section 120.002(a) or (a-1) without the required voter approval and who resides in the county may file a complaint with the criminal justice division of the office of the governor.

(b) The criminal justice division of the office of the governor shall determine whether a complaint filed under Subsection (a) is potentially valid or frivolous or false.

(c) The criminal justice division of the office of the governor shall provide written notice of a potentially valid complaint filed under Subsection (a) to the county that is the subject of the complaint. The division shall provide the county an opportunity to correct the action that is the subject of the complaint before referring the complaint to the comptroller.

Added by Acts 2021, 87th Leg., R.S., Ch. 201 (S.B. 23), Sec. 1, eff. January 1, 2022.
Amended by:
Acts 2025, 89th Leg., 2nd C.S., Ch. 13 (H.B. 192), Sec. 2, eff. December 4, 2025.

Sec. 120.007. COMPTROLLER INVESTIGATION; TAX RATE LIMITATION. (a) On request by the criminal justice division of the office of the governor, the comptroller shall determine whether a county has implemented a proposed reduction or reallocation described by Section 120.002(a) or (a-1) without the required voter approval. The comptroller shall issue a written determination to the governor, lieutenant governor, speaker of the house of representatives, and governing body of the county.

(b) The comptroller may require a county to submit information for the current or preceding fiscal year to assist the comptroller's investigation under this section.

(c) Notwithstanding any other law, if the comptroller determines that a county implemented a proposed reduction or reallocation described by Section 120.002(a) or (a-1) without the required voter approval, the county may not adopt an ad valorem tax rate that exceeds the county's no-new-revenue tax rate until the earlier of:

(1) the date the comptroller issues a written determination that the county has, as applicable:

(A) reversed each funding reduction, adjusted for inflation, and personnel reduction that was a subject of the determination; or

(B) restored all reallocated funding and resources that were subjects of the determination to the original law enforcement agency; or

(2) the date on which each reduction and reallocation that was a subject of the determination has been approved in an election held in accordance with this chapter.

(d) For purposes of making the calculation required under Section 26.013, Tax Code, in a tax year the comptroller determines that a county implemented a proposed reduction or reallocation described by Section 120.002(a) or (a-1) without the required voter approval, the difference between the actual tax rate and voter-

approval tax rate is considered to be zero.

Added by Acts 2021, 87th Leg., R.S., Ch. 201 (S.B. 23), Sec. 1, eff. January 1, 2022.
Amended by:
Acts 2025, 89th Leg., 2nd C.S., Ch. 13 (H.B. 192), Sec. 3, eff. December 4, 2025.

CHAPTER 130. MISCELLANEOUS FINANCIAL PROVISIONS AFFECTING COUNTIES
SUBCHAPTER A. PAYMENT OF FEES AND TAXES BY CHECK, CREDIT CARD, OR ELECTRONIC MEANS

Sec. 130.001. DEFINITIONS. In this subchapter:

(1) "Check" means an instrument signed by the maker, containing an unconditional promise or order to pay a sum certain in money, containing no other promise, order, obligation, or power given by the maker, payable on demand, and drawn on a bank.

(2) "Credit card invoice" means the document authorized by the holder of a credit card to be used to provide payment of an amount from the holder's credit card account.

(3) "Maker" means the drawer of a check or the holder of a credit card who authorizes a credit card invoice.

(4) "Payment by electronic means" means payment by telephone or computer but does not include payment in person or by mail.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(3), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 148, Sec. 2, eff. Sept. 1, 1997.

Sec. 130.002. ACCEPTANCE OF CHECK OR CREDIT CARD PAYMENT OF CERTAIN FEES AND TAXES. A county tax assessor-collector may accept a check or credit card invoice for the payment of:

(1) motor vehicle registration fees under Chapter 502, Transportation Code;

(2) motor vehicle sales taxes imposed by Chapter 152, Tax Code;

(3) occupation taxes paid to the assessor-collector under Chapter 191, Tax Code;

(4) motor vehicle title transfer fees under Chapter 501,

Transportation Code;

(5) license or permit fees under the Alcoholic Beverage Code; and

(6) property taxes.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(3), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 30.215, eff. Sept. 1, 1997.

Sec. 130.003. PAYMENT CONDITIONAL. (a) The acceptance of a check or credit card invoice for the payment of a fee or tax does not constitute payment of the fee or tax. The fee or tax is not considered paid until the check is honored by the bank on which the check is drawn or the credit card invoice is honored by the issuer.

(b) This section does not prohibit a county tax assessor-collector from issuing receipts, license plates, certificates, or other instruments on the receipt of a check or credit card invoice, but the issuance is conditional on the payment of the check by the drawee bank or the honoring of the credit card invoice by the credit card issuer.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(3), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug. 28, 1989.

Sec. 130.004. IDENTIFICATION REQUIRED. When a county tax assessor-collector receives a check or credit card invoice as conditional payment of a fee or tax, the assessor-collector shall require adequate identification of the maker and note on the check or invoice or otherwise record the type of identification of the maker and information from the identification to assist in locating the maker in the event the check or invoice is not honored.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(3), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug. 28, 1989.

Sec. 130.0045. CREDIT CARD PAYMENT PROCESSING FEE. (a) If a county tax assessor-collector accepts a credit card invoice as conditional payment of a fee or tax, the assessor-collector may collect a fee for processing the invoice.

(b) The assessor-collector shall set a fee collected under Subsection (a) in an amount that is reasonably related to the expense incurred in processing the credit card invoice, not to exceed five percent of the amount of the fee or tax. The processing fee is in addition to the amount of the fee or tax, and may be paid conditionally by including the amount of the processing fee on the credit card invoice.

Added by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 529, Sec. 1, eff. June 11, 2001.

Sec. 130.0046. FEE FOR PAYMENT BY ELECTRONIC MEANS. A county tax assessor-collector that accepts payment by electronic means as conditional payment of a county or state fee or tax may collect a handling fee for processing the payment. The handling fee is in addition to the amount of the fee or tax and may be paid conditionally by electronic means at the same time the tax or fee is paid.

Added by Acts 1997, 75th Leg., ch. 148, Sec. 3, eff. Sept. 1, 1997.

Sec. 130.005. LIABILITY OF ASSESSOR-COLLECTOR AND BONDSMAN. Except as provided by Section 130.008, a county tax assessor-collector and the assessor-collector's bondsman are not liable for the amount of any fee or tax for which the assessor-collector has accepted a check that is not honored by the drawee bank or credit card invoice that is not honored by the credit card issuer if the assessor-collector complied with the requirements of Section 130.004 and if the assessor-collector did not know or should not reasonably have known that the check was not properly drawn, that the credit card payment was not properly made, or that the check or credit card invoice would not be honored.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(3), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug.

28, 1989.

Sec. 130.006. PROCEDURES FOR COLLECTION OF DISHONORED CHECKS AND INVOICES. (a) A county tax assessor-collector may establish procedures for the collection of dishonored checks and credit card invoices. The procedures may include:

(1) official notification to the maker that the check or invoice has not been honored and that the receipt, registration, certificate, or other instrument issued on the receipt of the check or invoice is not valid until payment of the fee or tax is made;

(2) notification of the sheriff or other law enforcement officers that a check or credit card invoice has not been honored and that the receipt, registration, certificate, or other instrument held by the maker is not valid;

(3) notification to the Texas Department of Motor Vehicles, the comptroller of public accounts, or the Department of Public Safety that the receipt, registration, certificate, or other instrument held by the maker is not valid; and

(4) referral of a dishonored check or credit card invoice to a private collection agency.

(b) If the county tax assessor-collector refers a dishonored check or credit card invoice to a private collection agency under Subsection (a)(4), the private collection agency may charge a fee to the person responsible for the check or invoice in an amount equal to any amount authorized for a returned check under Section 118.011.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(3), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 165, Sec. 22(46), eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3H.01, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 2 (S.B. 492), Sec. 1, eff. May 4, 2017.

Sec. 130.007. REMISSION TO STATE NOT REQUIRED; STATE ASSISTANCE IN COLLECTION. (a) If a fee or tax is required to be remitted to

the comptroller or the Texas Department of Motor Vehicles and if payment was made to the county tax assessor-collector by a check that was not honored by the drawee bank or by a credit card invoice that was not honored by the credit card issuer, the amount of the fee or tax is not required to be remitted, but the assessor-collector shall notify the appropriate department of:

(1) the amount of the fee or tax;

(2) the type of fee or tax involved; and

(3) the name and address of the maker.

(b) The Texas Department of Motor Vehicles and the comptroller shall assist the county tax assessor-collector in collecting the fee or tax and may cancel or revoke any receipt, registration, certificate, or other instrument issued in the name of the state conditioned on the payment of the fee or tax.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(3), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 165, Sec. 22(46), eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3H.02, eff. September 1, 2009.

Sec. 130.008. LIABILITY OF TAX COLLECTOR FOR VIOLATIONS OF SUBCHAPTER. If the comptroller or the Texas Department of Motor Vehicles determines that the county tax assessor-collector has accepted payment for fees and taxes to be remitted to that department in violation of Section 130.004 or that more than two percent of the fees and taxes to be received from the assessor-collector are not remitted because of the acceptance of checks that are not honored by the drawee bank or of credit card invoices that are not honored by the credit card issuer, the department may notify the assessor-collector that the assessor-collector may not accept a check or credit card invoice for the payment of any fee or tax to be remitted to that department. A county tax assessor-collector who accepts a check or credit card invoice for the payment of a fee or tax, after notice that the assessor-collector may not receive a check or credit card invoice for the payment of fees or taxes to be remitted to a department, is liable to the state for the amount of the check or

credit card invoice accepted.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(3), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 165, Sec. 22(46), eff. Sept. 1, 1995.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3H.03, eff. September 1, 2009.

Sec. 130.009. STATE RULES. The comptroller and the Texas Department of Motor Vehicles may make rules concerning the acceptance of checks or credit card invoices by a county tax assessor-collector and for the collection of dishonored checks or credit card invoices.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(3), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 737, Sec. 3, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 165, Sec. 22(46), eff. Sept. 1, 1995.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3H.04, eff. September 1, 2009.

SUBCHAPTER Z. OTHER MISCELLANEOUS PROVISIONS

Sec. 130.901. SALE OF RIGHTS TO JUDGMENT PROCEEDS. (a) The commissioners court of a county may sell the rights of the county to any judgment proceeds belonging to the county if the principal and sureties on the judgment are insolvent so that under any existing process of law the judgment cannot be collected, either in whole or in part. The court may advertise the sale to the extent that it considers necessary and in the best interest of the county.

(b) If the amount bid for the rights to the judgment proceeds at the public sale is not considered sufficient, the commissioners court shall refuse to accept the bid and shall dispose of the rights in the manner considered most advantageous to the county's interest.

(c) If the court sells the rights to the judgment proceeds, the court shall properly assign the rights to the purchaser.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Sec. 130.001 by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(1), eff. Aug. 28, 1989.

Sec. 130.902. CHANGE FUND IN COUNTIES. (a) The commissioners court of a county may set aside from the general fund of the county an amount approved by the county auditor for use as a change fund by any county or district official who collects public funds. The fund may be used only to make change in connection with collections that are due and payable to the county, the state, or another political subdivision of the state that are often made by the official.

(b) The bond of that official who receives such a change fund must cover the official's responsibility for the correct accounting and disposition of the change fund.

(c) A change fund may not be used to make loans or advances or to cash checks or orders for payment of any kind.

(d) On the recommendation of the county auditor, the commissioners court may increase or decrease the change fund at any time.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 130.002 by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(1), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 727, Sec. 1, eff. Aug. 28, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 28, eff. September 1, 2011.

Sec. 130.903. REQUIREMENTS AND PROHIBITIONS RELATED TO COUNTY LAW ENFORCEMENT IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of more than 3.3 million.

(b) A county may not:

(1) transfer money appropriated to the office of sheriff or constable to the county's general revenue fund or any other county account; or

(2) prohibit the office of sheriff or constable from spending money appropriated to the office for any lawful purpose.

(c) The county may not prohibit or otherwise restrict the use of the money described by Subsection (b) by the sheriff or constable,

as applicable, for a lawful purpose, if the county auditor or county treasurer determines that the money is available to the office of the sheriff or constable, as applicable.

(d) In relation to money received under a contract entered into under Section 85.025 or 86.026, the commissioners court of the sheriff's or constable's county:

(1) shall credit the money to the office of the sheriff or constable, as applicable, and may not credit the money to the county's general revenue fund; and

(2) may not reduce the appropriation to the office of the sheriff or constable, as applicable, by the amount of the money received because the money is considered for purposes of Section 120.002 as part of the office's appropriation for the county fiscal year in which the money is received.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 13 (H.B. 192), Sec. 4, eff. December 4, 2025.

Sec. 130.904. SHERIFF'S PETTY CASH FUND. (a) The commissioners court of a county may establish a petty cash fund for the sheriff's department in an amount set by the commissioners court. The court shall appropriate the amount from the general fund of the county.

(b) Unless otherwise authorized by a resolution of the commissioners court, the petty cash fund may be used only to advance funds to an officer or employee of the sheriff's department who is required to travel outside the county to conduct an investigation or to obtain custody of a prisoner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 130.004 by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(1), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 578, Sec. 4, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 88, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 123, Sec. 1, eff. May 11, 1993.

Sec. 130.905. PETTY CASH FUND FOR COUNTY WELFARE DEPARTMENT IN POPULOUS COUNTY. (a) The commissioners court of a county with a population of 1.3 million or more, for the support of paupers through

a county welfare department, may authorize the disbursement of an amount not to exceed $2,500 to the head of the county welfare department for use as a petty cash fund in order that cash is immediately available for transportation and other expenses of the paupers. The petty cash fund must be established under a system provided and installed by the county auditor with reports to be made to the auditor, as the auditor may require, by the head of the county welfare department.

(b) In making payments to support the paupers that the county is required to support, the commissioners court, with the concurrence of the county auditor, may make one payment to the head of the county welfare department. The head of the county welfare department may disburse the money to the paupers on orders for payment designed by the county auditor. The orders are subject to audit by the county auditor at any time. The disbursements must be reported on forms and at times prescribed by the auditor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 130.005 by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(1), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 55, 56, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 29, eff. September 1, 2011.

Sec. 130.906. NATIONAL FOREST RECEIPTS ALLOCATED FOR SCHOOL DISTRICTS AND ROADS. The commissioners court of a county in which a national forest is located and that receives funds from the federal government under 16 U.S.C. Section 500 shall allocate 50 percent of the funds to the school districts of the county in proportion to the area encompassed by each district and shall either allocate the remaining 50 percent for the benefit of the public roads in the county or transfer that amount to the school districts.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 130.006 by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(1), eff. Aug. 28, 1989.

Sec. 130.907. AID TO STATE AND FEDERAL AGENCIES IN COUNTY WITH

POPULATION OF 22,050 TO 23,000. In each county with a population of 22,050 to 23,000, the commissioners court may provide financial aid and facilities, as the court considers necessary, to a state or federal governmental agency or bureau that conducts activities or maintains projects within the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 130.007 by Acts 1989, 71st Leg., ch. 1, Sec. 23(a)(1), eff. Aug. 28, 1989.

Sec. 130.908. APPROVAL OF SPENDING BY CERTAIN COUNTY AND PRECINCT OFFICERS. If an incumbent county or precinct officer is not renominated or is not reelected to the county or precinct office of a county, during the time following the date the results of the official canvass of the primary or election returns are announced, the commissioners court must approve any expenditure by the incumbent county or precinct officer who was not renominated or reelected that is over an amount set by the commissioners court.

Added by Acts 1991, 72nd Leg., ch. 793, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 2003, 78th Leg., ch. 592, Sec. 1, eff. Sept. 1, 2003.

Sec. 130.909. PETTY CASH FUNDS FOR CERTAIN OFFICIALS. (a) The commissioners court of a county may set aside from the general fund of the county, for the establishment of a petty cash fund for any county or district official or department head approved by the commissioners court, an amount approved by:

(1) the county auditor, for a county with a population of 3.3 million or more; or

(2) the commissioners court, for a county with a population of less than 3.3 million.

(a-1) The petty cash fund must be established under a system provided and installed by the county auditor and, in a county with a population of 3.3 million or more, the county purchasing agent. Reports relating to the petty cash fund must be made to the auditor and, if applicable, the purchasing agent as the auditor or purchasing agent requires.

(a-2) Falsifying documents or reports relating to the petty cash fund is an offense according to Section 32.21 or 37.10, Penal

Code.

(b) The bond of that county or district official or department head who receives such a petty cash fund must cover the official's responsibility for the correct accounting and disposition of the petty cash fund.

(c) The petty cash fund may not be used to make loans or advances or to cash checks or orders for payment of any kind.

(d) On the recommendation of the county auditor, the commissioners court may increase or decrease the petty cash fund at any time.

Added by Acts 1995, 74th Leg., ch. 60, Sec. 1, eff. Aug. 28, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 57, 58, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 830 (S.B. 829), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 830 (S.B. 829), Sec. 2, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. 373), Sec. 30, eff. September 1, 2011.

Sec. 130.910. AID TO DISASTER VICTIMS. (a) Subject to Subsection (b), the commissioners court of a county may provide money from the general fund of the county to individual residents of the county who are adversely affected by a disaster for which the county judge declared a local state of disaster under Section 418.108, Government Code.

(b) A county may not provide assistance to an individual under this section until the commissioners court of the county:

(1) has implemented policies and procedures to ensure that money granted under this section is used for the public purpose of providing disaster relief for emergency food, shelter, transportation, or other items or services necessary for public health and safety; and

(2) has determined that financial assistance from other sources, including this state and the federal government, is unavailable or inadequate.

Added by Acts 2009, 81st Leg., R.S., Ch. 784 (S.B. 1112), Sec. 1, eff.

June 19, 2009.

Sec. 130.911. RURAL SHERIFF'S OFFICE SALARY ASSISTANCE GRANT PROGRAM. (a) In this section:

(1) "Grant" means a grant authorized to be awarded by the comptroller under the rural sheriff's office salary assistance grant program established by this section.

(2) "Qualified county" means a county with a population of 300,000 or less.

(b) The comptroller shall establish and administer the rural sheriff's office salary assistance grant program to support the state purpose of ensuring professional law enforcement throughout the state by providing financial assistance to sheriff's offices in qualified counties.

(c) Not later than the 30th day after the first day of a qualified county's fiscal year, the county may submit an application for a grant to the comptroller. A county may submit only one application each fiscal year.

(d) The comptroller shall award a grant to a qualified county that applies for the grant using money appropriated to the comptroller for that purpose. The grant must be in the following applicable amount:

(1) $250,000 if the county has a population of less than 10,000;

(2) $350,000 if the county has a population of 10,000 or more and less than 50,000; or

(3) $500,000 if the county has a population of 50,000 or more and 300,000 or less.

(e) A county that is awarded a grant shall use or authorize the use of the grant money only:

(1) to provide a minimum annual salary of at least:

(A) $75,000 for the county sheriff;

(B) $45,000 for each deputy who makes motor vehicle stops in the routine performance of their duties; and

(C) $40,000 for each jailer whose duties include the safekeeping of prisoners and the security of a jail operated by the county;

(2) to increase the salary of a person described by Subdivision (1);

(3) to hire additional deputies or staff for the sheriff's office; or

(4) to purchase vehicles, firearms, and safety equipment for the sheriff's office.

(f) A county that is awarded a grant may not use or authorize the use of the grant money for a purpose other than to meet the minimum salary requirements prescribed by Subsection (e)(1) until those requirements are satisfied.

(g) A county may not reduce the amount of funds provided to the sheriff's office because of grant funds provided under this section.

(h) The comptroller shall adopt rules necessary to implement this section, including rules that establish:

(1) a standardized application process, including the form to be used to apply for a grant and the manner of submitting the form;

(2) deadlines for:

(A) applying for the grant;

(B) disbursement of grant money; and

(C) spending grant money; and

(3) procedures for:

(A) monitoring the disbursement of grant money to ensure compliance with this section; and

(B) the return of grant money that was not used by a county for a purpose authorized by this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 370 (S.B. 22), Sec. 1, eff. September 1, 2023.

Sec. 130.912. RURAL CONSTABLE'S OFFICE SALARY ASSISTANCE GRANT PROGRAM. (a) In this section:

(1) "Grant" means a grant authorized to be awarded by the comptroller under the rural constable's office salary assistance grant program established by this section.

(2) "Qualified constable" means a constable elected to an office created on or before January 1, 2023, who primarily makes motor vehicle stops in the routine performance of the constable's duties.

(3) "Qualified county" means a county with a population of 300,000 or less.

(b) The comptroller shall establish and administer the rural constable's office salary assistance grant program to support the state purpose of ensuring professional law enforcement throughout the state by providing financial assistance to constable's offices in qualified counties.

(c) Not later than the 30th day after the first day of a qualified county's fiscal year, the county may submit an application for a grant to the comptroller. A county may submit only one application each fiscal year.

(d) The comptroller shall award a grant to a qualified county that applies for the grant using money appropriated to the comptroller for that purpose. The comptroller may only award a grant to a county if the county agrees in writing to contribute at least 75 percent of the money required to meet the minimum annual salary requirement established under Subsection (e) for each qualified constable for which the county will also use grant money to provide that salary.

(e) Subject to Subsection (d), a county that is awarded a grant shall use or authorize the use of the grant money only to provide a minimum annual salary of $45,000 to a qualified constable.

(f) A county may not reduce the amount of funds provided to the constable's office because of grant funds provided under this section.

(g) The comptroller shall adopt rules necessary to implement this section, including rules that establish:

(1) a standardized application process, including the form to be used to apply for a grant and the manner of submitting the form;

(2) deadlines for:

(A) applying for the grant;

(B) disbursement of grant money; and

(C) spending grant money;

(3) procedures for:

(A) monitoring the disbursement of grant money to ensure compliance with this section; and

(B) the return of grant money that was not used by a county for a purpose authorized by this section; and

(4) standards to determine if a constable is a qualified constable.

Added by Acts 2023, 88th Leg., R.S., Ch. 370 (S.B. 22), Sec. 1, eff. September 1, 2023.

Sec. 130.913. RURAL PROSECUTOR'S OFFICE SALARY ASSISTANCE GRANT PROGRAM. (a) In this section:

(1) "Grant" means a grant authorized to be awarded by the comptroller under the rural prosecutor's office salary assistance grant program established by this section.

(2) "Qualified prosecutor's office" means, in a jurisdiction with a population of 300,000 or less, the office of a district attorney, criminal district attorney, or county attorney with criminal prosecution duties.

(b) The comptroller shall establish and administer the rural prosecutor's office salary assistance grant program to support the state purpose of ensuring professional legal representation of the people's interests throughout the state by providing financial assistance to qualified prosecutor's offices.

(c) Not later than the 30th day after the first day of a qualified prosecutor's office's fiscal year, the prosecutor's office may submit an application for a grant to the comptroller. A prosecutor's office may submit only one application each fiscal year.

(d) The comptroller shall award a grant to a qualified prosecutor's office that applies for the grant using money appropriated to the comptroller for that purpose. The grant must be in the following applicable amount:

(1) $100,000 if the prosecutor's office's jurisdiction has a population of less than 10,000;

(2) $175,000 if the prosecutor's office's jurisdiction has a population of 10,000 or more and less than 50,000; or

(3) $275,000 if the prosecutor's office's jurisdiction has a population of 50,000 or more and 300,000 or less.

(e) A prosecutor's office that is awarded a grant shall use or authorize the use of the grant money only:

(1) to increase the salary of an assistant attorney, an investigator, or a victim assistance coordinator employed at the office; or

(2) to hire additional staff for the office.

(f) A county may not reduce the amount of funds provided to a prosecutor's office because of grant funds provided under this

section.

(g) The comptroller shall adopt rules necessary to implement this section, including rules that establish:

(1) a standardized application process, including the form to be used to apply for a grant and the manner of submitting the form;

(2) deadlines for:

(A) applying for the grant;

(B) disbursement of grant money; and

(C) spending grant money; and

(3) procedures for:

(A) monitoring the disbursement of grant money to ensure compliance with this section; and

(B) the return of grant money that was not used by a qualified prosecutor's office for a purpose authorized by this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 370 (S.B. 22), Sec. 1, eff. September 1, 2023.

Sec. 130.914. RURAL AMBULANCE SERVICE GRANT PROGRAM. (a) In this section:

(1) "Ambulance" means a vehicle registered with the Department of State Health Services as an emergency medical service provider vehicle.

(2) "Grant program" means the rural ambulance service grant program established by this section.

(3) "Qualified county" is a county that has a population of 68,750 or less.

(4) "Qualified rural ambulance service provider" means a private safety entity or public agency as those terms are defined by Section 772.001, Health and Safety Code, licensed by the Department of State Health Services to provide emergency medical services and operating predominantly in a qualified county.

(b) The comptroller shall establish and administer the rural ambulance service grant program to support the state purpose of ensuring adequate ground ambulance services by providing financial assistance to qualified rural ambulance service providers in qualified counties.

(c) Not later than the 30th day after the first day of a qualified county's fiscal year, the county, on behalf of a qualified rural ambulance service provider, may submit a grant application to the comptroller. A county may submit only one application each fiscal year. If a county is awarded a grant under the grant program for a qualified rural ambulance service provider, the qualified rural ambulance service provider is ineligible to receive additional grant funds under the grant program from another qualified county in the same fiscal year.

(d) The comptroller may award a grant to a qualified county using money appropriated to the comptroller for that purpose and only in accordance with a written agreement between the comptroller and the county that includes conditions providing the comptroller with sufficient control to ensure the public purpose of providing adequate ground ambulance services is accomplished. In awarding grants, the comptroller shall consider the county's ability to otherwise obtain the money necessary to provide adequate ground ambulance services, including considering for the county the average:

(1) per capita taxable property value;

(2) per capita income; and

(3) unemployment rate.

(e) The comptroller may award a grant under this section only in the following applicable amount:

(1) for a county with a population of less than 10,000, an amount not to exceed $500,000; or

(2) for a county with a population between 10,000 and 68,750, an amount not to exceed $350,000.

(f) A qualified county awarded a grant under this section may use or authorize the use of the grant money only to purchase ambulances, including necessary accessories and modifications, as provided by comptroller rule.

(g) A qualified county awarded a grant under this section may not reduce the budget of the qualified rural ambulance service provider for the county's next fiscal year following the fiscal year of the grant award.

(h) The comptroller may disburse a grant award to a qualified county before the county places an order for an ambulance. The county shall purchase and take possession of an ambulance with money awarded under the grant program not later than the fifth anniversary of the date the county receives the money. Until an ambulance

becomes available for purchase, the county may deposit the grant funds in an interest bearing account and may treat any resulting proceeds as grant funds under the grant program. The comptroller shall adopt rules necessary to implement this section, including rules to establish:

(1) a standardized application process, the form to apply for a grant, and the manner of submitting the form;

(2) deadlines for:

(A) applying for a grant;

(B) disbursing grant money; and

(C) spending grant money; and

(3) procedures for:

(A) monitoring the disbursement of grant money to ensure compliance with this section; and

(B) requiring the return of grant money awarded if a county fails to use the money for a purpose authorized by this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 745 (H.B. 3000), Sec. 1, eff. September 1, 2025.

SUBTITLE C. FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 131. DEPOSITORY PROVISIONS AFFECTING FUNDS OF MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. SPECIAL DEPOSITORY

Sec. 131.001. SPECIAL DEPOSITORY AUTHORIZED. If a financial institution that is a depository under state law for the public funds of a county, municipality, or district suspends business or is taken charge of by a state or federal bank regulatory agency, the local government authority authorized to select the original depository may select by contract a special depository for the public funds in the suspended financial institution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.010, eff. Sept. 1, 1999.

Sec. 131.002. DUTIES OF SPECIAL DEPOSITORY. The special depository shall assume the payment of the amount of public funds due

by the suspended bank on the date of its suspension, including interest to that date, and shall pay that amount to the designated local government authority in accordance with the contract entered into by the special depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.003. SPECIAL DEPOSITORY CONTRACT. (a) The contract must require the payment of the deposit in installments as agreed to by the parties. The last installment must be paid not later than three years from the date of the contract.

(b) The parties may contract for the installments or the amount due to be evidenced by negotiable certificates of deposit or cashier's checks, payable at specified dates.

(c) The contract must set the rate of interest applicable to the funds placed in the special depository under this subchapter unless the parties agree that the funds are not to bear interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.004. BOND. (a) To secure the performance of a special depository contract, the special depository shall execute a bond, or bonds in the case of installments, with the same character of sureties required for regular depository bonds.

(b) The local government authority authorized by law to approve a bond of a regularly selected depository must approve a bond of a special depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.005. STATE FUNDS. (a) The comptroller shall determine the amount of state funds held by a county depository that suspends business or is taken charge of by a state or federal bank regulatory agency. The comptroller may:

(1) contract with a special depository selected by the county authorities as provided by this subchapter for the custody and payment of those funds; and

(2) approve a bond for the deposit contract.

(b) State funds placed in a special depository as provided by Subsection (a) shall bear the average rate of interest received by the state on state funds placed with regularly selected state depositories.

(c) The comptroller may proceed with available legal remedies against a suspended bank that is a depository for state funds if the comptroller considers that action to be in the best interest of the public.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.011, eff. Sept. 1, 1999.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 131.901. OUT-OF-STATE DEPOSITORY PROHIBITED. (a) The governing body of a political subdivision, including a county, municipality, school district, or other district, may not designate a financial institution located outside the state as a depository for funds under the governing body's jurisdiction. An out-of-state financial institution is not considered to be located outside this state to the extent the governing body designates a branch office of such institution that is located in this state.

(b) An institution selected as a paying agent or trustee for specific bonds or obligations or an institution selected by the governing body to provide safekeeping services is not considered a depository for purposes of this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 3, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 344, Sec. 5.012, eff. Sept. 1, 1999.

Sec. 131.902. PURSUIT OF LEGAL REMEDIES AGAINST SUSPENDED BANK. A county, municipality, or district authority may proceed with available legal remedies against a suspended bank that is a depository for public funds of the authority if the authority considers that action to be in the best interest of the public.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.903. CONFLICT OF INTEREST. (a) A bank is not disqualified from serving as a depository for funds of a political subdivision if:

(1) an officer or employee of the political subdivision who does not have the duty to select the political subdivision's depository is an officer, director, or shareholder of the bank; or

(2) one or more officers or employees of the political subdivision who have the duty to select the political subdivision's depository are officers or directors of the bank or own or have a beneficial interest, individually or collectively, in 10 percent or less of the outstanding capital stock of the bank, if:

(A) a majority of the members of the board, commission, or other body of the political subdivision vote to select the bank as a depository; and

(B) the interested officer or employee does not vote or take part in the proceedings.

(b) This section may not be construed as changing or superseding a conflicting provision in the charter of a home-rule municipality.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 36, eff. Sept. 1, 1993.

CHAPTER 132. PAYMENT OF FEES AND OTHER COSTS BY CREDIT CARD OR ELECTRONIC MEANS IN MUNICIPALITIES AND COUNTIES

Sec. 132.001. DEFINITIONS. In this chapter:

(1) "Credit card" means a card, plate, or similar device used to make purchases on credit or to borrow money.

(2) "Payment by electronic means" means payment by telephone or computer but does not include payment in person or by mail.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 148, Sec. 5, eff. Sept. 1, 1997.

Sec. 132.002. PAYMENT OF FEES OR COSTS BY CREDIT CARD OR ELECTRONIC MEANS. (a) The commissioners court of a county may authorize a county or precinct officer who collects fees, fines, court costs, or other charges on behalf of the county or the state to accept payment by credit card, the electronic processing of checks,

or other electronic means of a fee, fine, court costs, or other charge. The commissioners court may also authorize a county or precinct officer to collect and retain a reimbursement fee for processing the payment by credit card, the electronic processing of checks, or other electronic means.

(b) The governing body of a municipality may authorize a municipal official who collects fees, fines, court costs, or other charges to:

(1) accept payment by credit card of a fee, fine, court cost, or other charge; and

(2) collect a reimbursement fee for processing the payment by credit card.

(c) The governing body of a municipality may authorize the acceptance of payment by credit card without requiring collection of a reimbursement fee.

(d) The commissioners court may authorize a county or precinct officer who collects fees, fines, court costs, or other charges on behalf of the county or the state to accept payment by electronic means of a fee, fine, court costs, or other charge. The commissioners court may also authorize a county or precinct officer to collect and retain a reimbursement fee for processing the payment by electronic means.

(e) A commissioners court may authorize the acceptance of payment by credit card or by electronic means without requiring collection of a reimbursement fee.

(f) The director of a community supervision and corrections department, with the approval of the judges described by Section 76.002, Government Code, may authorize a community supervision official who collects fees, fines, court costs, and other charges to:

(1) accept payment by debit card or credit card of a fee, fine, court cost, or other charge; and

(2) collect a reimbursement fee for processing the payment by debit card or credit card.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 148, Sec. 6, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 569, Sec. 1, eff. June 11, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1205 (H.B. 1678), Sec. 9, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1022 (H.B. 2717), Sec. 4, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 17, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 12.002, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.52, eff. January 1, 2020.

Sec. 132.003. REIMBURSEMENT FEE FOR PROCESSING CERTAIN PAYMENTS. (a) The commissioners court shall set a reimbursement fee in an amount that is reasonably related to the expense incurred by the county or precinct officer in processing the payment by credit card. However, the court may not set the fee authorized by this subsection in an amount that exceeds five percent of the amount of the fee, court cost, or other charge being paid.

(b) The governing body of a municipality shall set the reimbursement fee in an amount that is reasonably related to the expense incurred by the municipal official in processing the payment by credit card. However, the governing body may not set the fee authorized by this subsection in an amount that exceeds five percent of the amount of the fee, fine, court cost, or other charge being paid.

(c) If the commissioners court authorizes collection of a reimbursement fee for processing a payment by electronic means under Section 132.002(d), the reimbursement fee shall be set:

(1) at a flat rate that does not exceed $5 for each payment transaction; or

(2) at a rate that is reasonably related to the expense incurred by the county or precinct officer in processing a payment by electronic means and that does not exceed five percent of the amount of the fee, court cost, or other charge being paid.

(d) In addition to the reimbursement fee set under Subsection (a), the commissioners court of a county may authorize a county or precinct officer to collect on behalf of the county from a person making payment by credit card a reimbursement fee in an amount equal to the amount of any transaction fee charged to the county by a vendor providing services in connection with payments made by credit card. The limitation prescribed by Subsection (a) on the amount of a

reimbursement fee under that subsection does not apply to a reimbursement fee collected under this subsection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 148, Sec. 7, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 126, Sec. 1, eff. May 15, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.53, eff. January 1, 2020.

Sec. 132.004. SERVICE CHARGE. If, for any reason, a payment by credit card is not honored by the credit card company on which the funds are drawn, the county or municipality may collect a service charge from the person who owes the fee, fine, court cost, or other charge. The service charge is in addition to the original fee, fine, court cost, or other charge and is for the collection of that original amount. The amount of the service charge is the same amount as the fee charged for the collection of a check drawn on an account with insufficient funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 132.005. ENCUMBRANCE OF CREDIT CARDS; FEE. A county or municipality may contract with a company that issues credit cards to collect and seize credit cards issued by the company that are outdated or otherwise unauthorized. The county or municipality may charge the company a fee for the return of the credit cards.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 132.006. DISPOSITION OF FEES AND CHARGES. (a) The county or precinct officer collecting a fee or charge under this chapter shall deposit the fee or charge in the general fund of the county.

(b) The municipal official collecting a fee or charge under this chapter shall deposit the fee or charge in the general fund of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 132.007. INFORMATION, SERVICES, AND PAYMENT THROUGH THE INTERNET. (a) A county or municipality may provide through the Internet:

(1) access to information;

(2) collection of payments for taxes, fines, fees, court costs, or other charges; or

(3) other county and municipal services authorized by law.

(b) A county or municipality may charge a reasonable fee for providing access, collecting payments, or providing services authorized by this section.

(c) A county or municipality that provides access to information or provides services through the Internet under Subsection (a)(1) or (3):

(1) may only charge a fee for the access or service if the fee is designed to recover the costs directly and reasonably incurred in providing the access or service; and

(2) may charge the fee only if the governing body of the county or municipality determines that providing access to the information or providing the service through the Internet would not be feasible without the imposition of the charge.

(d) A county or municipality may contract with a vendor to provide access, collect payments, or provide services authorized by Subsection (a). A vendor must promptly submit to the county or municipality all payments collected on behalf of the county or municipality under this section. The county or municipality must approve any fee charged by a vendor under a contract authorized by this subsection.

Added by Acts 2001, 77th Leg., ch. 94, Sec. 1, eff. May 11, 2001. Amended by Acts 2003, 78th Leg., ch. 1304, Sec. 1, eff. Sept. 1, 2003.

CHAPTER 133. CRIMINAL AND CIVIL FEES PAYABLE TO THE COMPTROLLER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 133.001. PURPOSE. The purpose of this chapter is to consolidate and standardize:

(1) collection of fees payable to the comptroller in

criminal and civil matters by:

(A) an officer of a court for deposit in a county or municipal treasury; or

(B) an officer of a county or municipality for deposit in the county or municipal treasury, as appropriate;

(2) remittance of those fees to the comptroller as required by this chapter and other law; and

(3) distribution of those fees by the comptroller to the proper accounts and funds in the state treasury.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.01, eff. January 1, 2020.

Sec. 133.002. DEFINITIONS. In this chapter:

(1) "Fee" means:

(A) a criminal fee listed under Section 133.003; and

(B) a civil fee listed under Section 133.004.

(2) "Indigent" means an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.

(3) "Treasurer" means the custodian of money in a municipal or county treasury, as appropriate.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

Sec. 133.003. CRIMINAL FEES. This chapter applies to the following criminal fees:

(1) the consolidated fee imposed under Section 133.102;

(2) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104 of this code; and

(3) fines on conviction imposed under Section 621.506(g), Transportation Code.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.
Amended by:
Acts 2005, 79th Leg., Ch. 1360 (S.B. 1704), Sec. 7, eff. September 1, 2005.
Acts 2005, 79th Leg., 2nd C.S., Ch. 3 (H.B. 11), Sec. 10, eff. December 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1014 (H.B. 1267), Sec. 5, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.02, eff. January 1, 2020.

Sec. 133.004. CIVIL FEES. This chapter applies to the following civil fees:

(1) the consolidated fee imposed under Section 133.151;

(2) fees collected under Section 118.015;

(3) marriage license fees for the family trust fund collected under Section 118.018; and

(4) marriage license or declaration of informal marriage fees for the child abuse and neglect prevention trust fund account collected under Section 118.022.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.
Amended by:
Acts 2005, 79th Leg., 2nd C.S., Ch. 3 (H.B. 11), Sec. 11, eff. December 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 718 (H.B. 2359), Sec. 6, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 13, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 4, eff. September 1, 2007.
Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 372 (H.B. 1631), Sec. 5, eff. June 2, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER B. REPORTING, COLLECTION, AND REMITTANCE OF FEES

Sec. 133.051. COLLECTION AND REMITTANCE OF FEES. (a) A municipality or county shall collect, record, account for, and remit to the comptroller all fees in the manner provided by this subchapter, except fees paid under Section 133.151 using the electronic filing system established under Section 72.031, Government Code.

(b) Fees paid under Section 133.151 using the electronic filing system established under Section 72.031, Government Code, shall be remitted directly to the treasury by the Office of Court Administration of the Texas Judicial System for disbursement and deposit as provided by that section.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.09, eff. January 1, 2022.

Sec. 133.052. DEPOSIT OF FEES. (a) An officer collecting a fee in a case in municipal court shall deposit the money in the municipal treasury.

(b) An officer collecting a fee in a justice, county, or district court shall deposit the money in the county treasury.

(c) A municipal or county clerk collecting a fee shall deposit the money in the municipal or county treasury, as appropriate.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

Sec. 133.053. INTEREST-BEARING ACCOUNT. (a) The treasurer may deposit fees in an interest-bearing account.

(b) The municipality or county may retain any interest accrued on the money the treasurer deposited in the treasury if the treasurer remits the funds to the comptroller within the period prescribed by Section 133.055(a).

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

Sec. 133.054. RECORDS. (a) An officer or clerk collecting a fee shall keep a record of the money collected.

(b) The treasurer shall keep a record of the money collected and on deposit in the treasury.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

Sec. 133.055. QUARTERLY REMITTANCE OF FEES TO THE COMPTROLLER. (a) For fees paid to an officer of a court and not using the electronic filing system established under Section 72.031, Government Code, on or before the last day of the month following each calendar quarter, the treasurer shall:

(1) remit to the comptroller the money from all fees collected during the preceding quarter, except as provided by Section 133.058; and

(2) submit to the comptroller the report required under Section 133.056 for criminal fees and Section 133.057 for civil fees.

(b) If the treasurer does not collect any fees during a calendar quarter, the treasurer shall file the report required for the quarter in the regular manner. The report must state that no fees were collected. This subsection does not apply to reimbursement or other fees or fines collected under Article 42A.303, Code of Criminal Procedure, or under Section 76.013, Government Code.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.74, eff. January 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.34, eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.10, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 919 (S.B. 1923), Sec. 7, eff. September 1, 2021.

Sec. 133.056. QUARTERLY REPORT FOR CRIMINAL FEES. (a) On the last day of the month following a calendar quarter, the treasurer shall report the criminal fees collected for the preceding calendar quarter.

(b) For fees collected for convictions of offenses committed on or after January 1, 2004, a municipality or county shall report the fees collected for a calendar quarter categorized according to the class of offense.

(c) For fees collected for convictions of offenses committed before January 1, 2004, a municipality or county shall report the total of fees collected for a calendar quarter.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

Sec. 133.057. QUARTERLY REPORT FOR CIVIL FEES. On the last day of the month following a calendar quarter, the treasurer shall report the civil fees collected for the preceding calendar quarter.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

Sec. 133.058. PORTION OF FEE RETAINED. (a) Except as otherwise provided by this section, a municipality or county may retain 10 percent of the money collected from fees as a service fee for the collection if the municipality or county remits the remainder of the fees to the comptroller within the period prescribed by Section 133.055(a).

(b) A municipality or county may retain an amount greater than 10 percent of the money collected from fees if retention of the greater amount is authorized by law.

(c) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(g)(5), eff. January 1, 2022.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 919 (S.B. 1923), Sec. 8

(d) A county may not retain a service fee on the collection of a reimbursement or other fee or fine:

(1) for the judicial fund;

(2) under Article 42A.303 or 42A.653, Code of Criminal Procedure;

(3) under Section 51.851, Government Code; or

(4) under Section 51.971, Government Code.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.11

(d) A county may not retain a service fee on the collection of a fee or fine:

(1) for the judicial fund;

(2) under Article 42A.303 or 42A.653, Code of Criminal Procedure;

(3) under Section 51.851, Government Code; or

(4) for any state consolidated filing fee under Section 133.151.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 15.04(1), eff. September 1, 2019.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 10.02, eff. August 29, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1171 (H.B. 2949), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 41.02, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 460 (S.B. 967), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1290 (H.B. 2302), Sec. 17, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.75, eff. January 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 23, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 15.04(1), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.35, eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.11, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(g)(5), eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 919 (S.B. 1923), Sec. 8, eff. September 1, 2021.

Sec. 133.059. AUDIT. (a) The comptroller may audit the records of a county or municipality relating to fees collected under this chapter.

(b) Money spent from fees collected under this chapter is subject to audit by the state auditor.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

SUBCHAPTER C. CRIMINAL FEES

Sec. 133.101. MEANING OF CONVICTION. In this subchapter, a person is considered to have been convicted in a case if:

(1) a judgment, a sentence, or both a judgment and a sentence are imposed on the person;

(2) the person receives community supervision, deferred adjudication, or deferred disposition; or

(3) the court defers final disposition of the case or imposition of the judgment and sentence.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

Sec. 133.102. CONSOLIDATED FEES ON CONVICTION. (a) A person convicted of an offense shall pay as a court cost, in addition to all other costs:

(1) $185 on conviction of a felony;

(2) $147 on conviction of a Class A or Class B misdemeanor; or

(3) $62 on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle.

(b) The court costs under Subsection (a) shall be collected and

remitted to the comptroller in the manner provided by Subchapter B.

(c) The money collected under this section as court costs imposed on offenses committed on or after January 1, 2020, shall be allocated according to the percentages provided in Subsection (e).

(d) The money collected as court costs imposed on offenses committed before January 1, 2004, shall be distributed using historical data so that each account or fund receives the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately. The money collected as court costs imposed on offenses committed on or after January 1, 2004, but before January 1, 2020, shall be allocated according to the percentages provided in Subsection (e), as that subsection existed and was applied on December 31, 2019.

(e) The comptroller shall allocate the court costs received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) crime stoppers assistance account
0.2427 percent;

(2) breath alcohol testing account
0.3900 percent;

(3) Bill Blackwood Law Enforcement Management Institute account
1.4741 percent;

(4) Texas Commission on Law Enforcement account
3.4418 percent;

(5) law enforcement and custodial officer supplement retirement trust fund
7.2674 percent;

(6) criminal justice planning account
8.5748 percent;

(7) an account in the state treasury to be used only for the establishment and operation of the Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University
0.8540 percent;

(8) compensation to victims of crime account 24.6704 percent;

(9) emergency radio infrastructure account 3.6913 percent;

(10) judicial and court personnel training account 3.3224 percent;

(11) an account in the state treasury to be used for the establishment and operation of the Correctional Management Institute of Texas and Criminal Justice Center account 0.8522 percent;

(12) fair defense account 17.8857 percent;

(13) judicial fund 12.2667 percent;

(14) DNA testing account 0.1394 percent;

(15) specialty court account 1.0377 percent;

(16) statewide electronic filing system account 0.5485 percent;

(17) jury service fund 6.4090 percent;

(18) youth diversion account 2.5956 percent; and

(19) transportation administrative fee account 4.3363 percent.

(f) Of each dollar credited to the Texas Commission on Law Enforcement account under Subsection (e)(4):

(1) 33.3 cents may be used only to pay administrative expenses; and

(2) the remainder may be used only to pay expenses related to continuing education for persons licensed under Chapter 1701, Occupations Code.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 701 (H.B. 442), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 13(b),

eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 966 (S.B. 2053), Sec. 1, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.03, eff. January 1, 2020.

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 14, eff. January 1, 2024.

Sec. 133.104. FEES FOR SERVICES OF PEACE OFFICERS EMPLOYED BY THE STATE. (a) Fees imposed under Article 102.011, Code of Criminal Procedure, for services performed by peace officers employed by the state shall be forwarded to the comptroller after deducting four-fifths of the amount of each fee received for a service performed under Subsection (a)(1) or (a)(2) of that article, in a manner directed by the comptroller.

(b) The comptroller shall credit fees received under Subsection (a) to the general revenue fund.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.

SUBCHAPTER C-1. ALLOCATION AND USE OF CERTAIN CRIMINAL FEES

Sec. 133.121. ALLOCATION OF FEES TO SPECIALTY COURT ACCOUNT. (a) The specialty court account is an account in the general revenue fund. The account consists of money allocated to the account under Section 133.102(e). Money in the account may be used only to fund specialty court programs established under Subtitle K, Title 2, Government Code.

(b) The legislature may appropriate money from the specialty court account only to the criminal justice division of the governor's office for distribution to specialty court programs that apply for the money.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.04, eff. January 1, 2020.

Sec. 133.122. ALLOCATION OF FEES TO JURY SERVICE FUND. (a) The jury service fund is created in the state treasury. The fund

consists of money allocated to the fund under Section 133.102(e). Money in the fund may be appropriated only to provide juror reimbursements to counties.

(b) If, at any time, the unexpended balance of the jury service fund exceeds $10 million, the comptroller shall transfer the amount in excess of $10 million to the fair defense account.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.04, eff. January 1, 2020.

Sec. 133.123. ALLOCATION OF FEES TO DNA TESTING ACCOUNT. The DNA testing account is an account in the general revenue fund. The account consists of money allocated to the account under Section 133.102(e). Money in the account may be appropriated only to the Department of Public Safety to help defray the cost of collecting or analyzing DNA samples provided by defendants who are required to pay a court cost under Section 133.102.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.04, eff. January 1, 2020.

Sec. 133.124. ALLOCATION OF FEES TO TRANSPORTATION ADMINISTRATIVE FEE ACCOUNT. The transportation administrative fee account is an account in the general revenue fund. The account consists of money allocated to the account under Section 133.102(e). Money in the account may be appropriated only to the Department of Public Safety to defray the administrative costs associated with implementing Chapter 706, Transportation Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.04, eff. January 1, 2020.

Sec. 133.125. ALLOCATION OF FEES TO YOUTH DIVERSION ACCOUNT. (a) The youth diversion account is a dedicated account in the general revenue fund. The account consists of money allocated to the account under Section 133.102(e).

(b) The legislature may appropriate money from the youth diversion account only to the criminal justice division of the

governor's office for distribution to local governmental entities for youth diversion services.

(c) A local governmental entity may request funds from the criminal justice division of the governor's office for providing youth diversion services. The division may award the requested funds based on the availability of appropriated funds and subject to the application procedure and eligibility requirements specified by division rule.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1213 (S.B. 1419), Sec. 2, eff. September 1, 2013.
Transferred, redesignated and amended from Code of Criminal Procedure, Art/Sec 102.015 by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.06, eff. January 1, 2020.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 15, eff. January 1, 2024.

SUBCHAPTER D. CIVIL FEES

Sec. 133.151. STATE CONSOLIDATED CIVIL FEE ON FILING A CIVIL CASE. (a) The clerk of a district court, statutory county court, statutory probate court, or county court shall collect:

(1) a fee in the amount of $137 on the filing of any civil, probate, guardianship, or mental health case; and

(2) a fee in the amount of $45 on any action other than an original action subject to Subdivision (1), including any counterclaim, cross-action, intervention, contempt action, adverse probate action, interpleader, motion for new trial, motion to reinstate, or third-party action.

(a-1) The clerk of a justice court shall collect a fee in the amount of $21 on the filing of any civil case and on any action other than an original action for the civil case, including an appeal and any counterclaim, cross-action, intervention, contempt action, interpleader, motion for new trial, motion to reinstate, or third-party action.

(b) The fees under this section shall be collected and remitted either:

(1) directly to the treasury by the Office of Court Administration of the Texas Judicial System for fees paid using the

electronic filing system established under Section 72.031, Government Code; or

(2) to the comptroller in the manner provided by Subchapter B for fees paid to an officer of a court.

(c) The comptroller shall allocate the fees received under Subsection (a)(1) to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the judicial fund to be used for court-related purposes for the support of the judiciary 59.854 percent;

(2) the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent 14.5985 percent;

(3) the statewide electronic filing system fund 21.8978 percent; and

(4) the judicial and court personnel training fund 3.6497 percent.

(d) The comptroller shall allocate the fees received under Subsection (a)(2) to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic legal services to an indigent 22.2222 percent;

(2) the statewide electronic filing system fund 66.6667 percent; and

(3) the judicial and court personnel training fund 11.1111 percent.

(e) The comptroller shall allocate the fees received under Subsection (a-1) to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not

receive less than the following percentages:

(1) the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent 28.5714 percent;

(2) the statewide electronic filing system fund 47.6191 percent; and

(3) the judicial and court personnel training fund 23.8095 percent.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 62(a), eff. Jan. 1, 2004.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.02, eff. January 1, 2022.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 19, eff. January 1, 2024.

CHAPTER 134. CRIMINAL FEES PAYABLE TO LOCAL GOVERNMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 134.001. PURPOSE. The purpose of this chapter is to consolidate and standardize collection of fees payable to a local government in criminal matters by:

(1) an officer of a court for deposit in a county or municipal treasury; or

(2) an officer of a county or municipality for deposit in the county or municipal treasury, as appropriate.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

Sec. 134.002. DEFINITIONS. (a) In this chapter:

(1) "Fee" means a criminal fee listed under Section 134.003.

(2) "Treasurer" means the custodian of money in a municipal or county treasury, as appropriate.

(b) In this chapter, a person is considered to have been convicted in a case if:

(1) a judgment, a sentence, or both a judgment and a sentence are imposed on the person;

(2) the person receives community supervision, deferred adjudication, or deferred disposition; or

(3) the court defers final disposition of the case or imposition of the judgment and sentence.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

Sec. 134.003. CRIMINAL FEES. This chapter applies to the criminal fees imposed under Sections 134.101, 134.102, and 134.103.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

SUBCHAPTER B. COLLECTION AND REMITTANCE OF LOCAL CRIMINAL FEES

Sec. 134.051. COLLECTION, REMITTANCE, AND DEPOSIT OF FEES. (a) A court clerk shall collect and remit to the county or municipal treasurer, as applicable, all fees in the manner provided by this section.

(b) An officer collecting a fee in a case in municipal court shall remit the money to the municipal treasurer for deposit in the municipal treasury.

(c) An officer collecting a fee in a justice, county, or district court shall remit the money to the county treasurer for deposit in the county treasury.

(d) A court clerk collecting a fee shall remit the money to the municipal or county treasurer, as applicable, for deposit in the municipal or county treasury, as appropriate.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

Sec. 134.052. ALLOCATION OF DEPOSITED FEES. (a) Money collected under Subchapter C as court costs imposed on offenses committed on or after January 1, 2020, shall be allocated according to the percentages provided by Sections 134.101, 134.102, and 134.103, as applicable.

(b) Money collected under Subchapter C as court costs imposed

on offenses committed before January 1, 2020, shall be distributed using historical data so that each account or fund receives the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

SUBCHAPTER C. LOCAL CRIMINAL FEES

Sec. 134.101. LOCAL CONSOLIDATED FEE ON CONVICTION OF FELONY. (a) A person convicted of a felony shall pay $105 as a court cost, in addition to all other costs, on conviction.

(b) The treasurer shall allocate the court costs received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the clerk of the court account 38.0953 percent;

(2) the clerks records management and preservation fund 23.8095 percent;

(3) the county jury fund 0.9524 percent;

(4) the courthouse security fund 9.5238 percent;

(5) the county and district court technology fund 3.8095 percent; and

(6) the county specialty court account 23.8095 percent.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 20, eff. January 1, 2024.

Sec. 134.102. LOCAL CONSOLIDATED FEE ON CONVICTION OF CLASS A OR B MISDEMEANOR. (a) A person convicted of a Class A or Class B misdemeanor shall pay $123 as a court cost, in addition to all other costs, on conviction.

(b) The treasurer shall allocate the court costs received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the clerk of the court account 32.5203 percent;

(2) the clerks records management and preservation fund 20.3252 percent;

(3) the account for prosecutor's fees 16.2602 percent;

(4) the county jury fund 0.8130 percent;

(5) the courthouse security fund 8.1301 percent;

(6) the county and district court technology fund 3.2520 percent;

(7) the court reporter service fund 2.4390 percent; and

(8) the county specialty court account 16.2602 percent.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 21, eff. January 1, 2024.

Sec. 134.103. LOCAL CONSOLIDATED FEE ON CONVICTION OF NONJAILABLE MISDEMEANOR. (a) A person convicted of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, shall pay $14 as a court cost, in addition to all other costs, on conviction.

(b) The treasurer shall allocate the court costs received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the courthouse security fund, municipal court building security fund, or consolidated municipal court building security and technology fund, as appropriate 35 percent;

(2) the local youth diversion fund 35.7143 percent;

(3) the justice court technology fund, municipal court technology fund, or consolidated municipal court building security and technology fund, as appropriate 28.5714 percent; and

(4) the county or municipal jury fund, as appropriate 0.7143 percent.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 16, eff. January 1, 2024.

Acts 2025, 89th Leg., R.S., Ch. 267 (H.B. 1950), Sec. 4, eff. May 29, 2025.

SUBCHAPTER D. ALLOCATION AND USE OF CERTAIN CRIMINAL FEES

Sec. 134.151. MAINTENANCE OF FUNDS AND ACCOUNTS. (a) A county or municipal treasurer, as applicable, shall maintain in the county or municipal treasury a fund or account to which money is allocated under Section 134.101, 134.102, or 134.103, to the extent that the fund or account is not required by other law. Money in an account maintained under this section may be used only for the purposes provided by this subchapter.

(b) An account or fund maintained under this section in a county treasury may be administered by or at the direction of the county commissioners court.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

Sec. 134.152. CLERK OF THE COURT ACCOUNT. Money allocated under Section 134.101 or 134.102 to the clerk of the court account maintained in the county treasury as required by Section 134.151 may be used by a county only to defray costs of services provided by a county or district clerk.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

Sec. 134.153. COUNTY SPECIALTY COURT ACCOUNT. Money allocated under Section 134.101 or 134.102 to the county specialty court account maintained in the county treasury as required by Section 134.151 may be used by a county only to fund specialty court programs established under Subtitle K, Title 2, Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

Sec. 134.154. COUNTY OR MUNICIPAL JURY FUND. Money allocated under Section 134.101, 134.102, or 134.103 to the county or municipal jury fund maintained in the county or municipal treasury, as applicable, and as required by Section 134.151 may be used by a county or municipality only to fund juror reimbursements and otherwise finance jury services.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

Sec. 134.155. CLERKS RECORDS MANAGEMENT AND PRESERVATION FUND. Money allocated under Section 134.101 or 134.102 to the clerks records management and preservation fund maintained in the county treasury as required by Section 134.151 may be used by a clerk only to fund records management and preservation services performed by the clerk who collects the fee.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 22, eff. January 1, 2024.

Sec. 134.156. LOCAL YOUTH DIVERSION FUND. (a) In a county or municipality that employs or contracts with a juvenile case manager under Article 45A.451, Code of Criminal Procedure, money allocated under Section 134.103 to the local youth diversion fund maintained in the county or municipal treasury as required by Section 134.151 may be used by a county or municipality to finance the salary, benefits,

training, travel expenses, office supplies, and other necessary expenses relating to the position of a juvenile case manager. If there is money in the fund after those costs are paid, subject to the direction of the governing body of the county or municipality and on approval by the employing court, a juvenile case manager may direct the remaining money to be used to implement programs directly related to the duties of the juvenile case manager, including juvenile alcohol and substance abuse programs, educational and leadership programs, and any other projects designed to prevent or reduce the number of juvenile referrals to the court.

(a-1) In a county or municipality that does not employ or contract with a juvenile case manager, the governing body of the county or municipality, in consultation with the court, may direct money described by Subsection (a) to be used for the support of a local mental health authority, juvenile alcohol and substance abuse programs, educational and leadership programs, teen court programs, and any other project designed to prevent or reduce the number of juvenile referrals to the court.

(b) Money in the fund may not be used to supplement the income of an employee whose primary role is not that of a juvenile case manager.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 17, eff. January 1, 2024.

Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 18, eff. January 1, 2024.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.136, eff. January 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 13.004, eff. September 1, 2025.

Sec. 134.157. ACCOUNT FOR PROSECUTOR'S FEES. Money allocated under Section 134.102 to the account for prosecutor's fees maintained in the county treasury as required by Section 134.151 may be used by a county only to defray the costs of services provided by a prosecutor.

Added by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.05, eff. January 1, 2020.

CHAPTER 135. CIVIL FEES PAYABLE TO LOCAL GOVERNMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 135.001. PURPOSE. The purpose of this chapter is to consolidate and standardize collection of fees payable to a local government in civil cases by:

(1) an officer of a court for deposit in a county treasury; or

(2) an officer of a county for deposit in the county treasury.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.002. DEFINITIONS. In this chapter:

(1) "Fee" means a civil fee listed under Section 135.003.

(2) "County treasurer" means the custodian of money in a county treasury.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.003. CIVIL FEES. This chapter applies to the civil fees imposed under Sections 135.101, 135.102, and 135.103 on civil, probate, guardianship, and mental health cases.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

SUBCHAPTER B. COLLECTION AND REMITTANCE OF LOCAL CIVIL FEES

Sec. 135.051. COLLECTION, REMITTANCE, AND DEPOSIT OF FEES. (a) A court clerk shall collect and remit to the county treasurer all fees in the manner provided by this section.

(b) An officer collecting a fee in a justice, county, or district court shall remit the money to the county treasurer for

deposit in the county treasury.

(c) A court clerk collecting a fee shall remit the money to the county treasurer for deposit in the county treasury.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.052. ALLOCATION OF DEPOSITED FEES. (a) Money collected under Subchapter C as civil fees imposed on or after January 1, 2022, shall be allocated according to the percentages provided by Sections 135.101, 135.102, and 135.103, as applicable.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

SUBCHAPTER C. LOCAL CIVIL FEES

Sec. 135.101. LOCAL CONSOLIDATED CIVIL FEE FOR CERTAIN CIVIL CASES IN DISTRICT COURT, STATUTORY COUNTY COURT, OR COUNTY COURT. (a) A person shall pay in a district court, statutory county court, or county court in addition to all other fees and court costs a local consolidated filing fee of:

(1) $213 on filing any civil case except a probate, guardianship, or mental health case; and

(2) $35 on any action other than an original action for a case subject to Subdivision (1), including any counterclaim, cross-action, intervention, contempt action, interpleader, motion for new trial, motion to reinstate, or third-party action.

(b) The county treasurer shall allocate the fees received under Subsection (a)(1) to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the appellate judicial system fund 2.3474 percent;

(2) the court facility fee fund 9.3897 percent;

(3) the clerk of the court account 23.4742 percent;

(4) the clerks records management and preservation account 14.0845 percent;

(5) the court reporter service fund 11.7371 percent;
(6) the county law library fund 16.4319 percent;
(7) the courthouse security fund 9.3897 percent;
(8) the language access fund 1.4085 percent;
(9) the county jury fund 4.6948 percent; and
(10) the county dispute resolution fund 7.0423 percent.

(c) The county treasurer shall allocate the fees received under Subsection (a)(2) to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:
(1) the clerk of the court account 42.8571 percent; and
(2) the clerks records management and preservation account 57.1429 percent.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 23, eff. January 1, 2024.
Acts 2025, 89th Leg., 2nd C.S., Ch. 7 (H.B. 16), Sec. 7.22, eff. December 4, 2025.

Sec. 135.102. LOCAL CIVIL FEE FOR PROBATE, GUARDIANSHIP, AND MENTAL HEALTH CASES IN STATUTORY COUNTY COURT, STATUTORY PROBATE COURT, OR COUNTY COURT. (a) A person shall pay in a statutory county court, statutory probate court, or county court in addition to all other fees and court costs a fee of:
(1) $223 on filing any probate, guardianship, or mental health case; and
(2) $75 on any action other than an original action for a case subject to Subdivision (1), including an adverse probate action, contest, or suit in a probate court, other than the filing of a claim against an estate, in which the movant or applicant filing the intervention pleading seeks any affirmative relief.

(b) The county treasurer shall allocate the fees received under Subsection (a)(1) to the following accounts and funds so that each

receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the appellate judicial system fund 2.2422 percent;

(2) the court facility fee fund 8.9686 percent;

(3) the clerk of the court account 17.9372 percent;

(4) the clerks records management and preservation account 6.7265 percent;

(5) the court reporter service fund 11.2108 percent;

(6) the county law library fund 15.6951 percent;

(7) the courthouse security fund 8.9686 percent;

(8) the language access fund 1.3453 percent;

(9) the county jury fund 4.4841 percent;

(10) the county dispute resolution fund 6.7265 percent;

(11) the court-initiated guardianship fund 8.9686 percent;

(12) the judicial education and support fund 2.2422 percent; and

(13) the public probate administrator fund 4.4843 percent.

(c) The county treasurer shall allocate the fees received under Subsection (a)(2) to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the clerk of the court account 53.3333 percent;

(2) the clerks records management and preservation account 6.6667 percent;

(3) the court-initiated guardianship fund 26.6667 percent; and

(4) the public probate administrator fund 13.3333 percent.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 24, eff. January 1, 2024.

Sec. 135.103. LOCAL CONSOLIDATED CIVIL FEE FOR JUSTICE COURT. (a) In addition to all other fees and court costs, a person shall pay a local consolidated filing fee of $33 on filing of any civil case in a justice court and on any action other than an original action for a civil case, including an appeal and any counterclaim, cross-action, intervention, contempt action, interpleader, motion for new trial, motion to reinstate, or third-party action.

(b) The county treasurer shall allocate the fees received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the justice court support fund 75.7576 percent;

(2) the county dispute resolution fund 15.1515 percent; and

(3) the language access fund 9.0909 percent.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 25, eff. January 1, 2024.

SUBCHAPTER D. ALLOCATION AND USE OF CERTAIN CIVIL FEES

Sec. 135.151. MAINTENANCE OF FUNDS AND ACCOUNTS. (a) A county treasurer shall maintain in the county treasury a fund or account to which money is allocated under Section 135.101, 135.102, or 135.103, to the extent that the fund or account is not required by other law. Money in an account maintained under this section may be used only for the purposes provided by this subchapter.

(b) An account or fund maintained under this section in a county treasury may be administered by or at the direction of the county commissioners court.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.152. COURT FACILITY FEE FUND. Money allocated under Section 135.101 or 135.102 to the court facility fee fund maintained in the county treasury as required by Section 135.151 may be used by a county only to fund the construction, renovation, or improvement of facilities that house the courts or to pay the principal of, interest on, and costs of issuance of bonds, including refunding bonds, issued for the construction, renovation, or improvement of the facilities.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.153. CLERK OF THE COURT ACCOUNT. Money allocated under Section 135.101 or 135.102 to the clerk of the court account maintained in the county treasury as required by Section 135.151 may be used by a county only to defray costs of services provided by a county or district clerk.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.154. CLERKS RECORDS MANAGEMENT AND PRESERVATION ACCOUNT. Money allocated under Section 135.101 or 135.102 to the clerks records management and preservation account maintained in the county treasury as required by Section 135.151 may be used by a clerk only to fund records management and preservation services, including automation, performed by the clerk who collects the fee on approval by the commissioners court of a budget as provided by Chapter 111. An expenditure from the fund must comply with Subchapter C, Chapter 262.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 26, eff. January 1, 2024.

Sec. 135.155. LANGUAGE ACCESS FUND. Money allocated under Section 135.101, 135.102, or 135.103 to the language access fund

maintained in the county treasury as required by Section 135.151 may be used by a county only to provide language access services for individuals appearing before the court or receiving court services.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.156. COUNTY JURY FUND. Money allocated under Section 135.101 or 135.102 to the county jury fund maintained in the county treasury as required by Section 135.151 may be used by a county only to fund juror reimbursements and otherwise finance jury services.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.157. COUNTY DISPUTE RESOLUTION FUND. (a) Money allocated under Section 135.101, 135.102, or 135.103 to the county dispute resolution fund maintained in the county treasury as required by Section 135.151 may be used by a county only to establish and maintain an alternative dispute resolution system in accordance with Chapter 152, Civil Practice and Remedies Code. The fund shall be administered by the commissioners court and may be used by the county only to establish and maintain the system. The system shall be operated at one or more convenient and accessible places in the county.

(b) If a county has not established an alternative dispute resolution system under Chapter 152, Civil Practice and Remedies Code, the money allocated under Subsection (a) shall be remitted to the comptroller and the comptroller shall allocate the money to the statewide electronic filing system fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.158. COURT-INITIATED GUARDIANSHIP FUND. Money allocated under Section 135.102 to the court-initiated guardianship fund maintained in the county treasury as required by Section 135.151 may be used by a county only to supplement other available funds to:

(1) pay the compensation of a guardian ad litem appointed by a court under Section 1102.001, Estates Code;

(2) pay the compensation of an attorney ad litem appointed by a court to represent a proposed ward in a guardianship proceeding initiated under Chapter 1102, Estates Code; and

(3) fund local guardianship programs that provide guardians for indigent incapacitated persons who do not have family members suitable and willing to serve as guardians.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.159. JUDICIAL EDUCATION AND SUPPORT FUND. Money allocated under Section 135.102 to the judicial education and support fund maintained in the county treasury as required by Section 135.151 may be used by a county only to pay:

(1) the continuing education of the judge and staff of the probate court, including the payment of travel and related expenses in attending a continuing judicial education activity of an organization accredited by the supreme court for continuing judicial education; or

(2) the county's contribution to fund the compensation required by Section 25.0022, Government Code, for the presiding judge of the statutory probate court.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.160. PUBLIC PROBATE ADMINISTRATOR FUND. Money allocated under Section 135.102 to the public probate administrator fund maintained in the county treasury as required by Section 135.151 may be used by a county only to support the office of public probate administrator established under Chapter 455, Estates Code. A county that does not appoint a public probate administrator subject to Chapter 455, Estates Code, shall deposit the money to the court-initiated guardianship fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

Sec. 135.161. JUSTICE COURT SUPPORT FUND. Money allocated under Section 135.103 to the justice court support fund maintained in the county treasury as required by Section 135.151 may be used by a county only to defray the costs of services provided by a justice court.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 1.03, eff. January 1, 2022.

CHAPTER 140. MISCELLANEOUS FINANCIAL PROVISIONS AFFECTING MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

Sec. 140.001. RELIEF UNDER FEDERAL BANKRUPTCY LAWS FOR MUNICIPALITY, TAXING DISTRICT, OR OTHER POLITICAL SUBDIVISION. (a) A municipality, taxing district, or other political subdivision that is subject to this section may proceed under all federal bankruptcy laws intended to relieve municipal indebtedness.

(b) A municipality is subject to this section if it has the power to incur indebtedness through the action of its governing body. A taxing district or other political subdivision is subject to this section if it has the power to incur indebtedness either through the action of its governing body or through that of the county or municipality in which it is located.

(c) The officials and governing body of the municipality, taxing district, or other political subdivision may adopt all proceedings and take any action necessary or convenient to fully avail the entity of the federal bankruptcy laws.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 140.002. INVESTMENTS BY POLITICAL SUBDIVISION IN DEFENSE BONDS AND OTHER FEDERAL OBLIGATIONS. A political subdivision that has a balance remaining in any of its accounts at the end of a fiscal year may invest the balance in defense bonds or other obligations of the United States. If those funds are needed, the political subdivision shall sell or redeem the federal obligations in which the funds are invested and shall deposit the proceeds of the obligations in the account from which they were originally drawn.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 140.003. PURCHASING AND FINANCIAL ACCOUNTING FOR DISTRICT ATTORNEYS, JUVENILE BOARDS, AND PROBATION DEPARTMENTS. (a) In this section, "specialized local entity" means:

(1) a district or criminal district attorney;

(2) a juvenile board, juvenile probation office, or juvenile department established for one or more counties; or

(3) an adult probation office or department established for a judicial district.

(b) A specialized local entity shall purchase items in accordance with the same procedures and subject to the same requirements applicable to a county under Subchapter C, Chapter 262. For the purposes of this section, a specialized local entity is treated as if it were a county. A specialized local entity may make a contract with a county under which the county performs purchasing functions for the entity.

(c) Within 30 days after the date the fiscal year of a district or criminal district attorney's office begins, the attorney shall:

(1) file with the commissioners court of each county in which the attorney has jurisdiction a complete financial statement of the office covering the preceding fiscal year; and

(2) prepare a budget for the current fiscal year and file it with each commissioners court.

(d) If a district or criminal district attorney's office regularly prepares its budget at a time different from the time prescribed by Subsection (c), the attorney shall prepare the budget at the regular time and file it with the commissioners court within 10 days after the date of its adoption.

(e) The financial statement required by Subsection (c) must contain any information considered appropriate by the district or criminal district attorney and any information required by the commissioners court of each county in which the attorney has jurisdiction.

(f) Each specialized local entity shall deposit in the county treasury of the county in which the entity has jurisdiction the funds the entity receives. The county shall hold, deposit, disburse, invest, and otherwise care for the funds on behalf of the specialized local entity as the entity directs. If a specialized local entity

has jurisdiction in more than one county, the district judges having jurisdiction in those counties, by a majority vote, shall designate from among those counties the county responsible for managing the entity's funds.

(g) The county auditor, if any, of the county that manages a specialized local entity's funds has the same authority to audit the funds of the entity that the auditor has with regard to county funds.

Added by Acts 1989, 71st Leg., ch. 1250, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 600, Sec. 2, eff. June 15, 1991.

Sec. 140.004. BUDGETS OF CERTAIN JUVENILE BOARDS. (a) This section applies only to a juvenile board, juvenile probation office, or juvenile department established for one or more counties.

(b) Before the 45th day before the first day of the fiscal year of a county, a juvenile board that has jurisdiction in the county shall:

(1) prepare a budget for the board's next fiscal year; and

(2) hold a meeting to finalize the budget.

(c) Before the 14th day before the juvenile board has a meeting to finalize its budget, the board shall file with the commissioners court:

(1) a copy of the proposed budget; and

(2) a statement containing the date of the board's meeting to finalize its budget.

(d) Before the later of the 90th day after the last day of the juvenile board's fiscal year, or the date the county auditor's annual report is made to the commissioners court, the board shall file with the commissioners court a complete financial statement of the board covering the board's preceding fiscal year.

(e) The financial statement required by Subsection (d) must contain any information considered appropriate by the juvenile board and any information required by the commissioners court of each county in which the board has jurisdiction.

(f) The budget for a juvenile board may not include an automobile allowance for a member of the governing body of the board if the member holds another state, county, or municipal office. The budget may include reimbursement of actual travel expenses, including mileage for automobile travel, incurred while the member is engaged

in the official business of the board.

Added by Acts 1991, 72nd Leg., ch. 600, Sec. 1, eff. June 15, 1991.
Amended by Acts 1995, 74th Leg., ch. 713, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 774 (S.B. 663), Sec. 6, eff. September 1, 2025.

Sec. 140.0045. ITEMIZATION OF CERTAIN EXPENDITURES REQUIRED IN CERTAIN POLITICAL SUBDIVISION BUDGETS. (a) Except as provided by Subsection (b), the proposed budget of a political subdivision must include, in a manner allowing for as clear a comparison as practicable between those expenditures in the proposed budget and actual expenditures for the same purpose in the preceding year, a line item indicating expenditures for:

(1) notices required by law to be published in a newspaper by the political subdivision or a representative of the political subdivision; and

(2) directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action, as those terms are defined in Section 305.002, Government Code.

(b) Subsection (a)(1) does not apply to a junior college district.

Added by Acts 2017, 85th Leg., R.S., Ch. 563 (S.B. 622), Sec. 1, eff. June 9, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1070 (H.B. 1495), Sec. 3, eff. June 14, 2019.

Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD, OR OTHER DISTRICT. The governing body of a school district, open-enrollment charter school, junior college district, or a district or authority organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, shall prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year:

(1) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of

state money, gifts, or other general sources from which funds are derived;

(2) the total disbursements of the fund, itemized by the nature of the expenditure; and

(3) the balance in the fund at the close of the fiscal year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 37, eff. Sept. 1. 1993. Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 34, eff. Sept. 1, 2001.

Sec. 140.006. PUBLICATION OF ANNUAL FINANCIAL STATEMENT BY SCHOOL, ROAD, OR OTHER DISTRICT. (a) Except as provided by Subsections (c) and (e), the presiding officer of a governing body shall submit a financial statement prepared under Section 140.005 to a newspaper in each county in which the district or any part of the district is located.

(b) If a district is located in more than one county, the financial statement may be published in a newspaper that has general circulation in the district. If a newspaper is not published in the county, the financial statement may be published in a newspaper in an adjoining county.

(c) The presiding officer of a school district shall submit a financial statement prepared under Section 140.005 to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the school district, the financial statement shall be published in the manner provided by Subsections (a) and (b). The governing body of an open-enrollment charter school shall take action to ensure that the school's financial statement is made available in the manner provided by Chapter 552, Government Code, and is posted continuously on the school's Internet website.

(d) A statement shall be published not later than two months after the date the fiscal year ends, except that a school district's statement shall be published not later than the 150th day after the date the fiscal year ends and in accordance with the accounting method required by the Texas Education Agency.

(e) This section does not apply to an entity created under Section 52, Article III, or Section 59, Article XVI, Texas

Constitution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 37, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 50, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1504, Sec. 35, eff. Sept. 1, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 41 (H.B. 978), Sec. 1, eff. May 8, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1140 (S.B. 2), Sec. 46, eff. September 1, 2013.

Sec. 140.007. LEAST COST REVIEW PROGRAM. (a) To assist counties, the comptroller of public accounts may develop, promulgate, and widely distribute forms, with instruction, for cost accounting for public improvements. The comptroller shall consult with large and small governmental entities and the construction industry prior to the promulgation of the forms and instructions.

(b) The cost accounting forms shall be simple and concise and capable of being completed by the counties at a minimum cost. The form shall provide a simple comparison of the cost of public improvements constructed by a county's personnel, equipment, or facilities and a competitive bid submitted by the private sector.

(c) The forms and instructions promulgated and distributed shall provide for cost comparisons by all governmental entities, including but not limited to counties, municipalities, special districts, and any other such entities that construct public improvements in-house. The cost comparison forms, with instruction, shall be promulgated and distributed by May 21, 1994.

Added by Acts 1993, 73rd Leg., ch. 1042, Sec. 2, eff. Sept. 1, 1993. Renumbered from Local Government Code Sec. 140.005 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(37), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 65, eff. Sept. 1, 2003.

Sec. 140.008. ANNUAL REPORT OF CERTAIN FINANCIAL INFORMATION. (a) In this section:

(1) "Debt obligation" means an issued public security, as defined by Section 1201.002, Government Code.

(2) "Political subdivision" means a county, municipality,

school district, junior college district, other special district, or other subdivision of state government. The term does not include a special purpose district described by Section 403.0241(b), Government Code.

(b) A political subdivision shall annually compile and report the following financial information in the manner prescribed by this section:

(1) as of the last day of the preceding fiscal year, debt obligation information for the political subdivision that must state:

(A) the amount of all authorized debt obligations;

(B) the principal of all outstanding debt obligations;

(C) the principal of each outstanding debt obligation;

(D) the combined principal and interest required to pay all outstanding debt obligations on time and in full;

(E) the combined principal and interest required to pay each outstanding debt obligation on time and in full;

(F) the amounts required by Paragraphs (A)-(E) limited to authorized and outstanding debt obligations secured by ad valorem taxation, expressed as a total amount and, if the political subdivision is a municipality, county, or school district, as a per capita amount; and

(G) the following for each debt obligation:

(i) the issued and unissued amount;

(ii) the spent and unspent amount;

(iii) the maturity date; and

(iv) the stated purpose for which the debt obligation was authorized;

(2) the current credit rating given by any nationally recognized credit rating organization to debt obligations of the political subdivision; and

(3) any other information that the political subdivision considers relevant or necessary to explain the values required by Subdivisions (1)(A)-(F), including:

(A) an amount required by Subdivision (1)(F) stated as a per capita amount if the political subdivision is not required to provide the amount under that paragraph;

(B) an explanation of the payment sources for the different types of debt; and

(C) a projected per capita amount of an amount required by Subdivision (1)(F), as of the last day of the maximum term of the

most recent debt obligation issued by the political subdivision.

(c) Instead of replicating in the annual report information required by Subsection (b) that is posted separately on the political subdivision's Internet website, the political subdivision may provide in the report a direct link to, or a clear statement describing the location of, the separately posted information.

(d) As an alternative to providing an annual report under Subsection (f), a political subdivision may provide to the comptroller the information described by Subsection (b) and any other related information required by the comptroller in the form and in the manner prescribed by the comptroller. The comptroller shall post the information provided by the political subdivision and any other information the comptroller considers relevant or necessary on the comptroller's Internet website. The comptroller may post the information in the format that the comptroller determines appropriate, provided that the information for each political subdivision is easily located by searching the name of the political subdivision on the Internet. If the political subdivision maintains an Internet website, the political subdivision shall provide a link from the website to the location on the comptroller's website where the political subdivision's financial information may be viewed. The comptroller shall adopt rules necessary to implement this subsection.

(e) This subsection applies only to a municipality with a population of less than 15,000 or a county with a population of less than 35,000. As an alternative to providing an annual report under Subsection (f), a municipality or county may provide to the comptroller, in the form and in the manner prescribed by the comptroller, a document that includes the information described by Subsection (b). The comptroller shall post the information from the document submitted under this subsection on the comptroller's Internet website on a web page that is easily located by searching the name of the municipality or county on the Internet. If the municipality or county maintains or causes to be maintained an Internet website, the municipality or county shall provide a link from the website to the web page on the comptroller's website where the information may be viewed. The comptroller shall adopt rules necessary to implement this subsection.

(f) Except as provided by Subsection (d) or (e), the governing body of a political subdivision shall take action to ensure that:

(1) the political subdivision's annual report is made

available for inspection by any person and is posted continuously on the political subdivision's Internet website until the political subdivision posts the next annual report; and

(2) the contact information for the main office of the political subdivision is continuously posted on the website, including the physical address, the mailing address, the main telephone number, and an e-mail address.

(g) Notwithstanding any other provision of this section, a district, as defined by Section 49.001, Water Code, satisfies the requirements of this section if, on an annual basis, the district:

(1) complies with the requirements of Subchapter G, Chapter 49, Water Code, regarding audit reports, affidavits of financial dormancy, and annual financial reports; and

(2) either:

(A) submits the financial documents described by Subchapter G, Chapter 49, Water Code, to the comptroller in the form and manner prescribed by the comptroller; or

(B) takes action to ensure that the financial documents described by Subchapter G, Chapter 49, Water Code, are made available at a regular office of the district for inspection by any person and, if the district maintains an Internet website, are posted continuously for public viewing on the district's Internet website.

(h) The comptroller shall post the documents submitted to the comptroller under Subsection (g) and any other information the comptroller considers relevant or necessary on the comptroller's Internet website, to the extent that the documents as submitted to the comptroller are in a form that facilitates compliance with applicable technical accessibility standards and specifications established in the electronic and information resources accessibility policy adopted by the comptroller under other law. The comptroller shall adopt rules necessary to implement this subsection and Subsection (g).

(i) If information required to be posted by the comptroller under this section is posted separately on an Internet website that a state agency, the comptroller, or a political subdivision, including a district as defined by Section 49.001, Water Code, maintains or causes to be maintained, the comptroller may post on the comptroller's Internet website a direct link to, or a clear statement describing the location of, the separately posted information instead of or in addition to reproducing the required information on the

comptroller's website.

Added by Acts 2015, 84th Leg., R.S., Ch. 923 (H.B. 1378), Sec. 1, eff. January 1, 2016.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 868 (H.B. 3001), Sec. 2, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 868 (H.B. 3001), Sec. 3, eff. September 1, 2019.

Sec. 140.009. CONTRACT FOR COLLECTION OF AMOUNTS IN CIVIL CASES. (a) The governing body of a municipality or the commissioners court of a county may contract with a private attorney or public or private vendor for the collection of an amount owed to the municipality or county relating to a civil case, including an unpaid fine, fee, or court cost, if the amount is more than 60 days overdue.

(b) A municipality or county contracting with an attorney or a vendor under Subsection (a) may authorize the addition of a collection fee of 30 percent of the amount referred. The collection fee may be used only to compensate the attorney or vendor who collects the debt.

(c) This section does not apply to the collection of commercial bail bonds.

Added by Acts 2013, 83rd Leg., R.S., Ch. 677 (H.B. 2021), Sec. 1, eff. June 14, 2013.

Sec. 140.011. LOCAL GOVERNMENTS DISPROPORTIONATELY AFFECTED BY PROPERTY TAX RELIEF FOR DISABLED VETERANS. (a) In this section:

(1) "General fund revenue" means revenue generated by a local government from the following sources during a fiscal year and deposited in the dedicated general operating fund of the local government during that fiscal year:

(A) ad valorem taxes;

(B) sales and use taxes;

(C) franchise taxes, fees, or assessments charged for use of the local government's right-of-way;

(D) building and development fees, including permit and

inspection fees;

(E) court fines and fees;

(F) other fees, assessments, and charges; and

(G) interest earned by the local government.

(2) "Local government" means:

(A) a municipality; and

(B) a county.

(3) "Qualified local government" means a local government entitled to a disabled veteran assistance payment under this section.

(b) To serve the state purpose of ensuring that the cost of providing ad valorem tax relief to disabled veterans is shared equitably among the residents of this state, a local government is entitled to a disabled veteran assistance payment from the state for each fiscal year that the local government is a qualified local government. A local government is a qualified local government for a fiscal year if the amount of lost ad valorem tax revenue calculated under Subsection (c) for that fiscal year is equal to or greater than:

(1) two percent of the local government's general fund revenue for that fiscal year if the local government is:

(A) a municipality adjacent to a United States military installation; or

(B) a county in which a United States military installation is wholly or partly located; and

(2) 10 percent of the local government's general fund revenue for that fiscal year if the local government is:

(A) a municipality in a county:

(i) described by Subdivision (1)(B) that has a population of:

(a) more than 370,000 but not more than 380,000; or

(b) more than 83,000 but not more than 84,000; or

(ii) described by Paragraph (B); or

(B) a county with a population of less than 25,000 that is adjacent to two counties that contain the same United States Army installation, neither of which has a population greater than 400,000.

(c) For the purposes of this section, the amount of a local government's lost ad valorem tax revenue for a fiscal year is calculated by multiplying the ad valorem tax rate adopted by the

local government under Section 26.05, Tax Code, for the tax year in which the fiscal year begins by the total appraised value of all property located in the local government that is granted an exemption from taxation under Section 11.131, Tax Code, for that tax year.

(d) A disabled veteran assistance payment made to a qualified local government for a fiscal year is calculated by subtracting from the local government's lost ad valorem tax revenue calculated under Subsection (c) for that fiscal year an amount equal to one percent of the local government's general fund revenue for that fiscal year.

(e) Not later than April 1 of the first year following the end of a fiscal year for which a qualified local government is entitled to a disabled veteran assistance payment, a qualified local government may submit an application to the comptroller to receive a disabled veteran assistance payment for that fiscal year. The application must be made on a form prescribed by the comptroller. The comptroller may require the qualified local government to submit an independent audit otherwise required by law to be prepared for the local government for the fiscal year for which a qualified local government is entitled to the payment.

(f) A qualified local government that does not submit an application to the comptroller by the date prescribed by Subsection (e) is not entitled to a disabled veteran assistance payment for the fiscal year for which that deadline applies.

(g) The comptroller shall review each application by a local government to determine whether the local government is entitled to a disabled veteran assistance payment. If the comptroller determines that the local government is entitled to the payment, the comptroller shall remit the payment from available funds to the qualified local government not later than the 30th day after the date the application for the payment is made.

(h) The comptroller shall transfer funds to a newly created account in the state treasury for the purpose of reimbursement of local governments under this section.

(i) The comptroller shall adopt rules necessary to implement this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 25, eff. September 1, 2015.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 425 (H.B. 2894), Sec. 1, eff.

September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 425 (H.B. 2894), Sec. 2, eff. September 1, 2025.

Sec. 140.012. FISCAL YEAR OF CERTAIN POLITICAL SUBDIVISIONS CREATED ON OR AFTER SEPTEMBER 1, 2019. (a) This section does not apply to a political subdivision that is a special district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) A political subdivision that is created on or after September 1, 2019, and that has authority to impose a tax must have the same fiscal year as the county in which the political subdivision is wholly or primarily located.

Added by Acts 2019, 86th Leg., R.S., Ch. 831 (H.B. 2617), Sec. 1, eff. September 1, 2019.

Sec. 140.013. BALANCE BILLING FOR COUNTY AND MUNICIPAL AMBULANCE SERVICES. (a) "Balance billing" means the practice of charging an enrollee in a health benefit plan to recover from the enrollee the balance of a health care provider's fee for a service received by the enrollee from the health care provider that is not fully reimbursed by the enrollee's health benefit plan.

(b) A county or municipality may elect to consider a health benefit plan payment towards a claim for air or ground ambulance services provided by the county or municipality as payment in full for those services regardless of the amount the county or municipality charged for those services.

(c) A county or municipality may not practice balance billing for a claim for which the county or municipality makes an election under Subsection (b).

Added by Acts 2021, 87th Leg., R.S., Ch. 585 (S.B. 790), Sec. 2, eff. September 1, 2021.

Sec. 140.014. RESTRICTION ON USE OF PUBLIC FUNDS BY POLITICAL SUBDIVISIONS TO PAY BAIL BONDS. (a) A political subdivision may not spend public funds to pay a nonprofit organization that accepts and

uses donations from the public to deposit money with a court in the amount of a defendant's bail bond.

(b) If a political subdivision engages in an activity prohibited by Subsection (a), a taxpayer or resident of the political subdivision is entitled to appropriate injunctive relief to prevent further activity prohibited by that subsection and further payment of public funds related to that activity.

(c) A party that prevails in an action under Subsection (b) is entitled to recover the party's reasonable attorney's fees and costs.

Added by Acts 2025, 89th Leg., R.S., Ch. 341 (S.B. 40), Sec. 1, eff. September 1, 2025.

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE A. MUNICIPAL OFFICERS AND EMPLOYEES

CHAPTER 141. COMPENSATION AND EXPENSES OF MUNICIPAL OFFICERS AND EMPLOYEES

SUBCHAPTER A. COMPENSATION, EXPENSES, AND PAYROLL DEDUCTIONS

Sec. 141.001. ELECTED AND APPOINTED OFFICERS IN TYPE A GENERAL-LAW MUNICIPALITIES. (a) On or before January 1 preceding a regular municipal election, the governing body of a Type A general-law municipality shall set:

(1) the salary and any fees of office of the mayor to be elected at that election, if the office of mayor is to be filled at the election;

(2) the compensation of each other elected officer to be elected at that election; and

(3) the compensation of each officer appointed by the governing body.

(b) An officer's compensation set under this section may not be changed during the term for which the officer is elected or appointed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.002. APPOINTED OFFICERS IN TYPE B GENERAL-LAW MUNICIPALITIES. The governing body of a Type B general-law municipality may set the amount of compensation of officers appointed by the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.003. GOVERNING BODY IN TYPE C GENERAL-LAW MUNICIPALITIES. (a) In a Type C general-law municipality, the mayor and each member of the governing body are entitled to receive $5 a day for each regular meeting and $3 a day for each special meeting of the governing body.

(b) The mayor or a member of the governing body may not be paid for more than five special meetings in a single month.

(c) In a municipality with a population of 2,000 or more, in lieu of per diem compensation under Subsection (a), the governing body may set the salary of the mayor and each member of the governing body. The amount of salary set for the mayor may not exceed $1,200 a year and the amount of salary set for each member of the governing body may not exceed $600 a year.

(d) In a municipality with a population of less than 2,000, in lieu of per diem compensation under Subsection (a), the governing body may set the mayor's salary at an amount not to exceed $600 a year.

(e) The governing body may set the amount of salary or other compensation to be paid to the municipal clerk, the municipal attorney, the members of the police force, and other officers appointed by the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.004. OFFICERS IN HOME-RULE MUNICIPALITIES. The governing body of a home-rule municipality may set the amount of compensation for each officer of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.005. ELECTED OFFICERS IN POPULOUS MUNICIPALITIES. (a) In a municipality with a population of 1.9 million or more, the governing body may set the amount of salary and expenses to be paid to elected officers by ordinance adopted in accordance with this section.

(b) The salary of a state district court judge of the county in

which the municipality is located is the comparative salary for the ordinance. In the ordinance:

(1) the salary of the municipal comptroller may not exceed the comparative salary;

(2) the salary of a member of the governing body may not exceed 40 percent of the comparative salary; and

(3) the salary of the mayor may not exceed 150 percent of the comparative salary.

(c) The governing body shall publish notice of the proposed ordinance in a newspaper of general circulation in the municipality for two consecutive weeks immediately preceding the week in which the meeting is to be held at which the proposed ordinance is to be considered. The notice must include:

(1) a general description of the proposed ordinance;

(2) a statement that a public hearing will be held before the ordinance is adopted;

(3) a statement of the time and place of the public hearing; and

(4) a statement that any interested person may appear and testify at the hearing.

(d) The governing body must hold a public hearing before considering the adoption of the proposed ordinance. The ordinance must be approved by a majority vote of the membership of the governing body.

(e) A certified copy of an ordinance adopted under this section must be filed with the municipal secretary within 10 days after the date the ordinance is enacted. The ordinance takes effect on the first day of the next term of office for the officer to whom the ordinance applies, unless the ordinance prescribes a later effective date.

(f) The governing body may submit an ordinance proposed under this section to the voters for their approval in the same manner that charter amendments are submitted under Chapter 9. When an election is held under this subsection, another election on the same proposition may not be called until two years have elapsed after the date of the election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 59, 60, eff. Sept. 1, 2001.

Sec. 141.006. POLICE OFFICERS IN TYPE A GENERAL-LAW MUNICIPALITY. The governing body of a Type A general-law municipality shall set the compensation, including any fees of office, for the municipal police officers and watchmen.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.007. POLICE RESERVE FORCE. The governing body of a municipality may provide for the uniform compensation of members of the municipal police reserve force. If a member of the reserve force is compensated, the compensation must be based only on the time served by the member in training for, or in the performance of, official duties. Members of the reserve force may serve without compensation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.008. PAYROLL DEDUCTIONS IN CERTAIN MUNICIPALITIES. (a) The governing body of a municipality with a population of more than 10,000 may deduct from a municipal employee's monthly salary or wages an amount requested in writing by the employee in payment of membership dues to a bona fide employees' association named by the employee.

(a-1) The governing body shall make the payroll deduction described by Subsection (a) if requested in writing by employees who are fire protection personnel as defined by Section 419.021, Government Code, if the municipality receives revenue from the state, and if the municipality permits deductions for purposes other than charity, health insurance, taxes, or other purposes for which the municipality is required by law to permit a deduction.

(a-2) The governing body shall make the payroll deduction described by Subsection (a) if:

(1) requested in writing by employees who:

(A) are peace officers as defined by Article 2A.001, Code of Criminal Procedure; and

(B) are not members of a police department covered by a collective bargaining agreement or meet-and-confer agreement entered into under this code; and

(2) the municipality permits deductions for purposes other

than charity, health insurance, taxes, or other purposes for which the municipality is required by law to permit a deduction.

(b) Participation in the payroll deduction program by a municipal employee who is on active full-time duty is voluntary.

(c) An employee's written request must:

(1) be set out in a form prescribed and provided by the municipal treasurer or comptroller;

(2) state the amount to be deducted each month; and

(3) direct the municipal treasurer or comptroller to transfer the deducted funds to the designated employees' association.

(d) The amount deducted each month may not exceed the amount stated in the written request. However, the governing body of a municipality having a program under this section may impose and collect an administrative fee from each participating employee in addition to the membership dues that are withheld. The fee must be a reasonable amount to reimburse the municipality for the administrative costs of collecting, accounting for, and disbursing the membership dues.

(e) A request under this section remains in effect until the municipal treasurer or comptroller receives a written notice of revocation in a form prescribed and provided by the treasurer or comptroller and filed by the employee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 76A, eff. June 20, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 813 (S.B. 716), Sec. 1, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.137, eff. January 1, 2025.

Sec. 141.009. DEFINITIONS. (a) In this chapter, "member of the fire department" means an employee of the fire department who is defined as "fire protection personnel" by Section 419.021, Government Code.

(b) In this chapter, "member of the police department" means an employee of the police department who has been licensed as a peace officer by the Texas Commission on Law Enforcement.

Added by Acts 1989, 71st Leg., ch. 92, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.1031, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.47, eff. May 18, 2013.

Sec. 141.010. MUNICIPAL EMPLOYEES IN TYPE A AND B GENERAL-LAW MUNICIPALITIES. To the extent consistent with Subchapter B of this chapter and Chapters 142 and 143, the governing body of a Type A or B general-law municipality may consider longevity and cost of living in setting the salary of a municipal employee.

Added by Acts 2009, 81st Leg., R.S., Ch. 922 (H.B. 3001), Sec. 1, eff. June 19, 2009.

SUBCHAPTER B. COMPENSATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN CERTAIN MUNICIPALITIES

Sec. 141.031. BASE SALARY. (a) In a municipality with a population of 10,000 to 40,000, each member of the fire or police department is entitled to receive a salary of at least $165 a month.

(b) In a municipality with a population of 40,001 to 100,000, each member of the fire or police department is entitled to receive a salary of at least $195 a month.

(c) In a municipality with a population of 100,001 to 175,000, each member of the fire or police department is entitled to receive a salary of at least $210 a month.

(d) In a municipality with a population of more than 175,000, each member of the fire or police department is entitled to receive a salary of at least $220 a month.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 10, eff. Sept. 1, 2001.

Sec. 141.032. LONGEVITY PAY. In a municipality with a population of 10,000 or more, each member of the fire or police department is entitled to receive, in addition to all other money paid for services rendered in the department, longevity pay of $4 a month for each year of service in the department, not to exceed 25

years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.033. CLASSIFICATION OF POSITIONS; SALARY SCHEDULE. (a) Each municipality affected by this subchapter shall classify all positions in its fire and police departments and shall specify the duties and prescribe the salary for each classification.

(b) A member of the fire or police department who is required to perform the duties of a particular classification is entitled to be paid the salary prescribed for that position during the time the member performs those duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.034. PETITION TO INCREASE SALARIES. (a) The qualified voters of a municipality with a population of more than 10,000, may petition the governing body of the municipality in accordance with this section to increase the minimum salary of each member of the fire or police department.

(b) A petition under this section must:

(1) state the amount of the proposed minimum salary for each rank, pay grade, or classification;

(2) state the effective date of the proposed salary increase;

(3) designate five qualified voters to act as a committee of petitioners authorized to negotiate with the governing body of the municipality under Subsection (g); and

(4) be signed by a number of qualified voters equal to at least 25 percent of the voters who voted in the most recent municipal election.

(c) When a petition is filed under this section, the governing body shall:

(1) adopt the proposed minimum salary stated in the petition;

(2) offer an alternative minimum salary proposal under Subsection (g); or

(3) call an election on the proposed minimum salary as provided by this section.

(d) If the governing body chooses to call an election, the only issue that may be submitted is whether the proposed minimum salary should be adopted. The election shall be held on the first authorized uniform election date under Chapter 41, Election Code, that occurs after the 65th day after the date the petition was filed.

(e) The ballot for the election shall be printed to provide for voting for or against the proposition: "Adoption of the proposed minimum salaries of _____ applicable to _____." The proposed salary for each rank, pay grade, or classification, the affected department, and effective date of the proposed minimum salary as stated in the petition must be inserted in the blank spaces.

(f) If a majority of the votes cast at the election favor the adoption of the proposed minimum salary, the governing body of the municipality shall cause the minimum salary to take effect not later than the date specified in the petition as the effective date.

(g) If the governing body chooses to offer an alternative minimum salary proposal, the governing body shall confer with the committee of petitioners designated in the petition and offer the alternative salary proposal. If the committee accepts the alternative salary proposal, the governing body is not required to call an election.

(h) When an election has been held or an alternative salary proposal has been accepted under this section, a petition for another election under this section may not be filed until one year has elapsed after the date the election was held or the alternative salary proposal was accepted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.035. PENALTY. (a) A person who is a municipal official in a municipality with a population of 10,000 or more and who is in charge of the fire or police department or is responsible for setting the compensation provided by this subchapter commits an offense if the person violates this subchapter.

(b) An offense under this section is punishable by a fine of not less than $10 or more than $100.

(c) Each day on which the municipal official causes or permits a violation of this subchapter to occur is a separate offense.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 142. ASSISTANCE, BENEFITS, AND WORKING CONDITIONS OF MUNICIPAL OFFICERS AND EMPLOYEES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 142.001. GENERAL PROVISIONS RELATING TO HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN MUNICIPALITIES. (a) In Sections 142.0013, 142.0015, and 142.0017, "work cycle" means the period in a posted work schedule starting at the time the cycle begins and ending at the time the cycle begins to repeat itself. The cycle may span any number of days or weeks or a part of a day or week.

(b) A provision of Section 142.0013, 142.0015, or 142.0017 does not apply if it is inconsistent with a collective bargaining agreement that was in effect on August 31, 1987, and was made in accordance with The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes).

(c) Sections 142.0013 and 142.0015 do not prohibit the chief or head of a police department from assigning a police officer under the chief's or head's jurisdiction or supervision to work periods of uncompensated duty as prescribed by Section 143.055. A period of uncompensated duty may not be considered or otherwise taken into account in determining compliance with Section 142.0013 or 142.0015, and Section 142.0013 and Sections 142.0015(f), (g), (h), and (j) do not apply to or include periods of uncompensated duty to which a police officer is assigned.

(d) Sections 142.0013, 142.0015, and 142.0017 do not prevent a fire fighter or police officer from working extra hours when exchanging hours of work with another fire fighter or police officer with the consent of the department head.

(e) A municipal official having charge of a fire department or police department commits an offense if the official violates Section 142.0013, 142.0015, or 142.0017. An offense under this subsection is punishable by a fine of not less than $10 or more than $100. Each day on which the municipal official causes or permits the section to be violated constitutes a separate offense.

Amended by Acts 1989, 71st Leg., ch. 1, Sec. 24(a), eff. Aug. 28, 1989.

Sec. 142.0013. HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN CERTAIN MUNICIPALITIES. (a) A member of a fire or police department in a municipality with a population of more than 25,000 may not, except in an emergency, be required to be on duty more than six days in a week.

(b) A member of a fire or police department in a municipality with a population of more than 30,000 is entitled to 15 vacation days each year with pay if the member has been regularly employed in the department or departments for at least one year. The municipal officials supervising the fire and police departments shall designate the days of the week during which a member of a fire department or police department is not required to be on duty and the days during which the member is allowed to be on vacation.

(c) A fire fighter shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees, at least one of which shall be designated as September 11th.

(d) A police officer shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 24(a), eff. Aug. 28, 1989. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1287 (H.B. 2113), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1287 (H.B. 2113), Sec. 2, eff. September 1, 2009.

Sec. 142.0015. HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN MUNICIPALITY WITH POPULATION OF MORE THAN 10,000. (a) This section applies only in a municipality with a population of more than 10,000.

(b) A fire fighter or a member of a fire department who provides emergency medical services, other than the fire chief or the assistant chief or an equivalent classification, and who is required or permitted to work more than the number of hours that bears the same ratio to 212 hours as the number of days in the work period

bears to 28 days is considered to have worked overtime. The person is entitled to be compensated for the overtime as provided by Subsection (e).

(c) A member of a fire department who does not fight fires or provide emergency medical services, including a mechanic, clerk, investigator, inspector, fire marshal, fire alarm dispatcher, and maintenance worker, other than the fire chief or the assistant chief or an equivalent classification, and who is required or permitted to average more hours in a week than the number of hours in a normal work week of the majority of the employees of the municipality other than fire fighters, emergency medical service personnel, and police officers, is considered to have worked overtime. The person is entitled to be compensated for the overtime as provided by Subsection (e).

(d) In computing the hours worked in a work week or the average number of hours worked in a work week during a work cycle of a fire fighter or other member of a fire department covered by this section, all hours are counted during which the fire fighter or other member of a fire department is required to remain on call on the employer's premises or so close to the employer's premises that the person cannot use those hours effectively for that person's own purposes. Hours in which the fire fighter or other member of a fire department is required only to leave a telephone number at which that person may be reached or to remain accessible by radio or pager are not counted. In computing the hours in a work week or the average number of hours in a work week during a work cycle of a fire fighter or a member of a fire department who provides emergency medical services, vacation, sick time, holidays, time in lieu of holidays, or compensatory time may be excluded as hours worked.

(e) A fire fighter or other member of a fire department may be required or permitted to work overtime. A fire fighter or other member of a fire department, other than the fire chief or the assistant chief or an equivalent classification, who is required or permitted to work overtime as provided by Subsections (b) and (c) is entitled to be paid overtime for the excess hours worked without regard to the number of hours worked in any one week of the work cycle. Overtime hours are paid at a rate equal to 1-1/2 times the compensation paid to the fire fighter or member of the fire department for regular hours.

(e-1) Notwithstanding Subsection (d), in a municipality with a

population of one million or more that has not adopted Chapter 143, for purposes of determining hours worked, including determining hours worked for calculation of overtime under Subsection (e), all hours are counted as hours worked during which the fire fighter or member of the fire department:

(1) is required to remain available for immediate call to duty by continuously remaining in contact with the fire department office by telephone, pager, or radio; or

(2) is taking any authorized leave, including attendance incentive leave, vacation leave, holiday leave, compensatory time off, jury duty, military leave, or leave because of a death in the family.

(f) Except as provided by Subsection (g) or (j), a police officer may not be required to work:

(1) more than 40 hours during a calendar week in a municipality that:

(A) has a population of more than one million;

(B) is not subject to Section 142.0017; and

(C) has not adopted Chapter 174; or

(2) in a municipality not described by Subdivision (1), more hours during a calendar week than the number of hours in the normal work week of the majority of the employees of the municipality other than fire fighters and police officers.

(f-1) In determining whether a police officer is considered to have been required to work overtime for purposes of Subsection (f)(1), all hours are counted during which the police officer:

(1) is required to remain available for immediate call to duty by continuously remaining in contact with a police department office by telephone or by radio;

(2) is taking any authorized leave, including attendance incentive leave, vacation leave, holiday leave, compensatory time off, jury duty, military leave, or leave because of a death in the family; and

(3) is considered to have worked under Subsection (h).

(g) In the event of an emergency, a police officer may be required to work more hours than permitted by Subsection (f). An emergency is an unexpected happening or event or an unforeseen situation or crisis that calls for immediate action and requires the chief or head of the police department to order a police officer to work overtime.

(h) An officer required to work overtime in an emergency is entitled to be compensated for the overtime at a rate equal to 1-1/2 times the compensation paid to the officer for regular hours unless the officer elects, with the approval of the governing body of the municipality, to accept compensatory time equal to 1-1/2 times the number of overtime hours. For purposes of this subsection, compensable hours of work include all hours during which a police officer is:

(1) on duty on the premises of the municipality or at a prescribed workplace or required or permitted to work for the municipality, including preshift and postshift activities that are:

(A) an integral part of the officer's principal activity; or

(B) closely related to the performance of the principal activity; and

(2) away from the premises of the municipality under conditions that are so circumscribed that the officer is restricted from effectively using the time for personal pursuits.

(i) Bona fide meal periods are not counted as hours worked. For a bona fide meal period, which does not include coffee breaks or time for snacks, a police officer must be completely relieved from duty. Ordinarily, 30 minutes or more is long enough for a bona fide meal period. A period shorter than 30 minutes may be long enough for a bona fide meal period under special conditions. A police officer is not relieved from duty if the officer is required to perform any duties, whether active or inactive, during the meal period.

(j) If a majority of police officers working for a municipality sign a written waiver of the prohibition in Subsection (f), the municipality may adopt a work schedule for police officers requiring a police officer to work more hours than permitted by Subsection (f). The officer is entitled to overtime pay if the officer works more hours during a calendar month than the number of hours in the normal work month of the majority of the employees of the municipality other than fire fighters and police officers.

(k) For purposes of this subsection, "police dispatcher" means an operator or dispatcher employed by a municipal police department who provides communication support services for the police department by responding to requests for assistance. If a majority of police dispatchers for a municipal police department vote in favor of an alternate work schedule, the municipality may adopt an alternate work

schedule for the department's dispatchers. A dispatcher working under an alternate work schedule adopted under this subsection is entitled to overtime pay if the dispatcher works more hours during a calendar month than the number of hours in the normal work month of the majority of the employees of the municipality other than fire fighters and police officers.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 24(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 756, Sec. 1, eff. Sept. 1, 1993. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 80 (H.B. 1562), Sec. 1, eff. May 14, 2007.

Acts 2007, 80th Leg., R.S., Ch. 229 (H.B. 1768), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1269 (H.B. 1146), Sec. 1, eff. June 19, 2009.

Acts 2021, 87th Leg., R.S., Ch. 796 (H.B. 792), Sec. 1, eff. September 1, 2021.

Sec. 142.0016. USE OF COMPENSATORY TIME BY MEMBERS OF FIRE AND POLICE DEPARTMENTS IN MUNICIPALITY WITH POPULATION OF MORE THAN 10,000. (a) This section applies only in a municipality with a population of less than 1.5 million that is eligible to adopt civil service under Chapter 143.

(b) A fire fighter or police officer may, with the approval of the governing body of the municipality, accept instead of overtime pay compensatory time at a rate equal to 1-1/2 times the number of overtime hours.

(c) A fire fighter or police officer may use compensatory time only when both the fire fighter or police officer and the municipality agree the time may be used.

(d) A municipality may at any time pay a fire fighter or police officer for all or part of the person's accumulated compensatory time if both the fire fighter or police officer and the municipality agree the time may be paid.

(e) If full payment for a fire fighter's or police officer's accumulated compensatory time would exceed 10 percent of the person's annual salary, the municipality may at its option defer payment of the amount in excess of 10 percent until the first pay period of the

next fiscal year.

(f) A municipality shall pay for accumulated compensatory time at a rate equal to the fire fighter's or police officer's salary at the time the payment is made or at the time the payment was requested, whichever is greater.

(g) If a fire fighter or police officer dies or terminates employment for any reason, the municipality shall pay to the fire fighter or police officer or to his estate the total value of all the fire fighter's or police officer's accumulated compensatory time.

Added by Acts 1989, 71st Leg., ch. 37, Sec. 1, eff. Sept. 1, 1989.

Sec. 142.0017. HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN MUNICIPALITY WITH POPULATION OF MORE THAN 1.5 MILLION. (a) This section applies only in a municipality with a population of more than 1.5 million.

(b) A fire fighter or fire fighter emergency medical personnel may not be required or permitted to work more than an average of 46.7 hours a week during a 72-day work cycle designated by the department head. If the fire fighter or fire fighter emergency medical services employee is required to work more than an average of 46.7 hours a week during a 72-day work cycle designated by the department head, the person is entitled to be compensated for the overtime as provided by Subsection (f).

(c) A member of a fire department who does not fight fires or provide emergency medical services, including a mechanic, clerk, investigator, inspector, fire marshal, fire alarm dispatcher, and maintenance worker, may not, except as provided by Subsection (d) or (f):

(1) average more hours in a week than the number of hours in a normal work week of the majority of the employees of the municipality other than fire fighters, fire fighter emergency medical personnel, and police officers; or

(2) be on duty for more days in a work week or average more days on duty a week in a work cycle than the number of days on duty during the work week of the majority of the employees of the municipality other than fire fighters, fire fighter emergency medical personnel, and police officers.

(d) If a majority of the members of the fire department working

as fire alarm dispatchers sign a written agreement with the municipality that allows the municipality to require or permit fire alarm dispatchers to average a specified number of hours of work a week that is more than the number of hours allowed under Subsection (c) but not more than an average of 46.7 hours a week during a 72-day work cycle designated by the department head, the municipality may adopt a work schedule for the members of the fire department working as fire alarm dispatchers in accordance with the agreement. If under Subsection (f) a member of a fire department working as a fire alarm dispatcher is required to work more than the number of hours allowed under the agreement, the person is entitled to be compensated for the overtime as provided by Subsection (f). Each agreement adopted under this subsection expires as provided by the agreement, but not later than the first anniversary of the date that the agreement takes effect. Subsection (c) applies when an agreement adopted under this subsection is not in effect.

(e) In computing the hours in a work week or the average number of hours in a work week during a work cycle of a fire fighter or other member of a fire department as provided by Subsections (b)-(d), all hours are counted:

(1) during which the fire fighter or other member of the fire department is required to remain available for immediate call to duty by continuously remaining in contact with a fire department office by telephone or by radio; and

(2) that are sick time, vacation time, meal time, holidays, compensatory time, death in the family leave, or any other authorized leave.

(f) A fire fighter or other member of a fire department may be required in an emergency to work more hours in a work week or work cycle than permitted under Subsection (b), (c), or (d). The fire fighter or other member of a fire department is entitled to be paid overtime for the excess hours worked without regard to the number of hours worked in any one week of the work cycle. Overtime hours are paid at a rate equal to 1-1/2 times the compensation paid to the fire fighter or other member of the fire department for regular hours.

(g) A police officer may not, except as provided by Subsections (h) and (j), be required or permitted to work more hours during a calendar week than the number of hours in the normal work week of the majority of the employees of the municipality other than fire fighters and police officers.

(h) In the event of an emergency, a police officer may be required to work more hours than permitted by Subsection (g). An emergency is an unexpected happening or event or an unforeseen situation or crisis that calls for immediate action and requires the chief or head of the police department to order a police officer to work overtime.

(i) A police officer required to work overtime in an emergency is entitled to be compensated for the overtime at a rate equal to 1-1/2 times the compensation paid to the officer for regular hours unless the officer elects, with the approval of the governing body of the municipality, to accept compensatory time equal to 1-1/2 times the number of overtime hours. In computing the hours in a work week or the average number of hours in a work week during a work cycle of a police officer, all hours are counted:

(1) during which the police officer is required to remain on call on the employer's premises or so close to those premises that the officer cannot use the time effectively for the officer's own purposes; and

(2) that are sick time, vacation time, meal time, holidays, compensatory time, death in the family leave, or any other authorized leave.

(j) If a majority of police officers working for a municipality sign a written waiver of the prohibition in Subsection (g), the municipality may adopt a work schedule for police officers requiring a police officer to work more hours than permitted by Subsection (g). The officer is entitled to overtime pay if the officer works more hours during a calendar month than the number of hours in the normal work month of the majority of the employees of the municipality other than fire fighters and police officers.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 24(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 1, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 782, Sec. 1, eff. June 16, 1991; Acts 1997, 75th Leg., ch. 386, Sec. 1, eff. May 28, 1997.

Sec. 142.002. TWO PLATOON FIRE SYSTEM AND HOURS OF LABOR IN CERTAIN MUNICIPALITIES. (a) A municipality that maintains an organized, paid fire department shall establish and maintain a two platoon fire system if the municipality:

(1) has a population of 100,001 to 119,999 and is in a county containing more than 900 square miles; or

(2) has a population of 265,000 or more and is in a county containing more than 1,500 square miles.

(b) An employee of a fire department in a municipality covered by Subsection (a) may not be required to be on duty more than 10 consecutive hours during the daytime or more than 14 consecutive hours during the nighttime. The employee may not be required to be on duty more than 14 hours in a period of 24 consecutive hours, except as provided by Subsection (c).

(c) The head or chief officer of a fire department or company in a municipality covered by Subsection (a) shall arrange the working hours of the employees of the department or company so that the employees work, as nearly as practicable, an equal number of hours each month. The working hours of the two platoons may be arranged so that each works 24 hours on duty and has 24 hours off duty. The head or chief officer of the department, or an aide or assistant to the head or chief officer, may require an employee to continue on duty during an emergency for a longer period than specified by Subsection (b).

(d) A person commits an offense if the person violates this section or causes this section to be violated. An offense under this subsection is a misdemeanor and is punishable by a fine of not less than $10 or more than $100. Each employee required or permitted to work in violation of this section and each day the section is violated constitute a separate offense.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 142.003. HOSPITAL AND MEDICAL ASSISTANCE FOR POLICE RESERVE FORCE. (a) The governing body of a municipality may provide hospital and medical assistance to a member of the police reserve force who sustains injury in the course of performing official duties in the same manner as provided by the governing body for a full-time police officer.

(b) A police reserve officer is eligible for death benefits as provided by Chapter 615, Government Code.

(c) This section does not authorize a member of a police reserve force to become eligible for participation in a pension fund

created under state statute of which a regular officer may become a member by payroll deductions or otherwise.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(33), eff. Sept. 1, 1995.

Sec. 142.004. PAYMENT OF HOSPITALIZATION COSTS FOR PEACE OFFICERS AND FIRE FIGHTERS. (a) In this section, "peace officer" means a peace officer as defined by Article 2A.001, Code of Criminal Procedure.

(b) If a peace officer or fire fighter employed by a municipality sustains an injury in the performance of the person's duties that results in permanent incapacity for work and requires constant confinement in a hospital or other institution providing medical treatment, the municipality may pay all costs of the confinement in excess of amounts that are paid under a policy of insurance or by another governmental entity.

(c) To the extent this section permits payments, the municipality is subrogated to the rights of the peace officer or fire fighter in a suit against a third party because of the injury.

(d) To receive funds under this section, a peace officer or fire fighter must furnish the governing body of the municipality:

(1) proof that the injury was sustained in the performance of the person's duties resulting in permanent incapacity for work and requiring constant confinement for medical treatment;

(2) proof of the part of the cost of confinement not paid under a policy of insurance or by another governmental entity; and

(3) any other information or evidence required by the governing body.

(e) This section does not permit payment of costs of constant confinement for medical treatment incurred before August 27, 1973.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.138, eff. January 1, 2025.

Sec. 142.005. LIABILITY INSURANCE FOR FIRE AND POLICE DEPARTMENT OFFICERS AND EMPLOYEES DRIVING EMERGENCY VEHICLES. (a) A

municipality may insure the officers and employees of its fire and police departments and other municipal employees who drive emergency vehicles against liability to third persons arising from the use and operation of a motor vehicle used as a municipal emergency medical, fire, or police vehicle in the line of duty by procuring a policy for that purpose from an insurance company authorized to do business in this state.

(b) Insurance taken out by a municipality must be on forms approved by the State Board of Insurance.

(c) A municipality may not purchase liability insurance in excess of $20,000 because of bodily injury to or death of one person in any one accident, $100,000 because of bodily injury to or death of two or more persons in any one accident, and $15,000 because of injury to or destruction of property of others in any one accident.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 11, eff. Sept. 1, 2001.

Sec. 142.006. MOTOR VEHICLE LIABILITY INSURANCE FOR PEACE OFFICERS AND FIRE FIGHTERS. (a) This section does not apply to a municipality covered by Section 142.007.

(b) A municipality shall provide for insuring each peace officer and fire fighter in its employ against liability to third persons arising out of the operation, maintenance, or use of a motor vehicle owned or leased by the municipality.

(c) The liability coverage provided under this section must be in amounts not less than those required by Chapter 601, Transportation Code, to provide proof of financial responsibility.

(d) The municipality may elect to be self-insured or to reimburse the actual cost of extended automobile liability insurance endorsements obtained by a peace officer and fire fighter on an individually owned automobile liability insurance policy. The extended endorsements must:

(1) be in the amount required by Subsection (c); and

(2) extend the coverage to include the operation and use of vehicles by a peace officer or fire fighter in the scope of the officer's or fire fighter's employment.

(e) If the reimbursement method is used, the municipality may require that a peace officer or fire fighter who operates and uses a

motor vehicle present proof that an extended coverage endorsement has been purchased and is in effect for the period of reimbursement.

(f) In this section, "motor vehicle" means any motor vehicle for which motor vehicle automobile insurance may be written under Subchapter A, Chapter 5, Insurance Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 38, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.216, eff. Sept. 1, 1997.

Sec. 142.007. MOTOR VEHICLE LIABILITY INSURANCE FOR FIRE AND POLICE DEPARTMENT OFFICERS AND EMPLOYEES IN MUNICIPALITY OF 1,550,000 OR MORE. (a) A municipality with a population of 1,550,000 or more shall insure the officers and employees of its fire and police departments against liability to third persons arising out of the operation, maintenance, or use of a motor vehicle owned or leased by the municipality.

(b) The municipality may elect to be self-insured or may purchase insurance from an insurance company authorized to do business in this state.

(c) Insurance purchased by the municipality must be on forms approved by the State Board of Insurance.

(d) The municipality may not purchase liability insurance in excess of $100,000 because of bodily injury to or death of one person in any one accident, $300,000 because of bodily injury to or death of two or more persons in any one accident, and $10,000 because of injury to or destruction of property of others in any one accident.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 142.008. SALARY CONTINUATION PAYMENTS; SUBROGATION. (a) If a municipality pays benefits to a municipal employee under a salary continuation program when the employee is injured, the municipality is subrogated to the employee's right of recovery for personal injuries caused by the tortious conduct of a third party other than another employee of the same municipality.

(b) The subrogation extends only to payments made by the municipality.

(c) A municipality may not deny benefits under a salary

continuation program because a municipal employee has a cause of action against a third party for personal injuries.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 142.009. PAYMENT FOR APPEARANCES OF FIRE FIGHTERS AND POLICE OFFICERS IN COURT OR ADMINISTRATIVE PROCEEDINGS. (a) A municipality shall pay a fire fighter or police officer for an appearance as a witness in a criminal suit, a civil suit, or an administrative proceeding in which the municipality or other political subdivision or government agency is a party in interest if the appearance:

(1) is required;

(2) is made on time off; and

(3) is made by the fire fighter or police officer in the capacity of a fire fighter or police officer.

(b) Payment under this section is at the fire fighter's or police officer's regular rate of pay.

(c) Payment under this section may be taxed as court costs in civil suits.

(d) This section does not reduce or prohibit compensation paid in excess of the regular rate of pay.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 412 (H.B. 1960), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 412 (H.B. 1960), Sec. 2, eff. June 19, 2009.

Sec. 142.010. DEFINITIONS. (a) In this chapter, "member of the fire department" means an employee of the fire department who is defined as "fire protection personnel" by Section 419.021, Government Code.

(b) In this chapter, "member of the police department" means an employee of the police department who has been licensed as a peace officer by the Commission on Law Enforcement Standards and Education.

Added by Acts 1989, 71st Leg., ch. 92, Sec. 2, eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.1032, eff. Sept. 1, 2001.

Sec. 142.011. EDUCATIONAL LEAVE. (a) On written application by a member of the police department, a municipality may grant the person a leave of absence to enable the person to enroll full-time in college to pursue a course of study related to law enforcement or public safety.

(b) The person is entitled to continue receiving employee benefits, including health and life insurance and accumulation of retirement credit, while on leave under Subsection (a) if the person pays both the person's and the municipality's share of the cost of the benefits.

(c) On reinstatement, the person shall receive full seniority credit for the time spent on leave under Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 853, Sec. 1, eff. Sept. 1, 1993.

Sec. 142.012. OVERTIME COMPENSATION FOR CERTAIN POLICE DEPARTMENT OFFICERS AND CIVILIAN EMPLOYEES. (a) This section applies only to a municipality with a population of one million or more that has not adopted Chapter 143.

(b) Subject to the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), a municipality may but is not required to establish a system under which compensation is paid or compensatory time off is allowed for overtime worked by the following officers and employees of the municipality's police department:

(1) a police officer who has a rank above the rank of captain and whose appointment to the officer's current rank was not based at least in part on the officer's performance on a competitive examination; or

(2) a civilian who receives a salary greater than the lowest base salary that the municipality pays a captain and whose appointment to the civilian's current position was not based at least in part on the civilian's performance on a competitive examination.

Added by Acts 2001, 77th Leg., ch. 928, Sec. 1, eff. Sept. 1, 2001.

Sec. 142.013. BUSINESS LEAVE TIME ACCOUNT FOR POLICE OFFICERS IN CERTAIN MUNICIPALITIES. (a) This section applies only to police officers employed by a municipality with a population of one million or more that has not adopted Chapter 174 and to which Section 143.1261 does not apply.

(b) In this section:

(1) "Business leave" means leave taken for the purpose of attending to the business of an employee organization.

(2) "Employee organization" includes:

(A) the Texas Peace Officers Association;

(B) the Dallas Police Association;

(C) the Dallas Fraternal Order of Police;

(D) the Latino Peace Officers Association; and

(E) the Black Police Association of Greater Dallas.

(c) If the constitution and bylaws of an employee organization authorize the employee organization to participate in the establishment and maintenance of a business leave time account as provided by this section, a police officer may donate not more than two hours for each month of accumulated vacation or compensatory time to the business leave time account of the employee organization. The municipality shall establish and maintain a business leave time account for each employee organization.

(d) Donations to the business leave time account of an employee organization by its members may be authorized in one of the following ways:

(1) if the majority of the membership of the employee organization has not affirmatively voted to require contributions by the employee organization's members to its business leave time account:

(A) a police officer must authorize the donation in writing on a form provided by the employee organization and approved by the municipality; and

(B) after receiving the signed authorization on an approved form, the municipality shall transfer donated time to the account monthly until the municipality receives the police officer's written revocation of the authorization; or

(2) if the majority of the membership of the employee organization has affirmatively voted to require contributions by the employee organization's members to its business leave time account:

(A) except as provided by Paragraph (C), the

municipality shall transfer donated time to the employee organization's business leave time account from the accumulated vacation or compensatory time of each police officer who is a member of the employee organization in the amount approved by vote of the employee organization not to exceed the amount allowed under Subsection (c);

(B) the municipality shall transfer the donated time to the account monthly beginning with the first calendar month that begins after the date of the employee organization vote requiring contributions; and

(C) each year, during the period beginning on the 60th day before the anniversary of the first day of the first calendar month in which donations were first transferred to the business leave time account of the employee organization under Paragraph (B) and ending on the 30th day before that anniversary, a police officer who is a member of the employee organization may inform the municipality in writing on a form provided by the employee organization and approved by the municipality that the police officer chooses to not donate time to the account during the 12-month period beginning with that anniversary.

(e) Only a police officer who is a member of an employee organization may use for business leave purposes the time donated to the account of that employee organization. A police officer may use for business leave purposes the time donated under this section without receiving a reduction in salary and without reimbursing the municipality.

(f) A request to use for business leave purposes the time in an employee organization's time account must be in writing and submitted to the municipality by the president or the equivalent officer of the employee organization or by that officer's designee.

(g) The municipality shall grant a request for business leave that complies with Subsection (f) unless:

(1) denial of the request is necessary because of an emergency; or

(2) a grant of the request will result in having an insufficient number of police officers to carry out the normal functions of the municipality.

(h) The municipality shall account for the time donated to the account and used from the account. The municipality shall credit and debit the account on an hour-for-hour basis regardless of the cash

value of the time donated or used.

(i) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1011, Sec. 2, eff. September 1, 2013.

(j) The use of business leave by a police officer under this section is not a break in service for any purpose and is treated as any other paid leave.

Added by Acts 2003, 78th Leg., ch. 447, Sec. 1, eff. June 20, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 734 (H.B. 1057), Sec. 2, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1011 (H.B. 2509), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1011 (H.B. 2509), Sec. 2, eff. September 1, 2013.

Sec. 142.014. BUSINESS LEAVE TIME ACCOUNT FOR FIREFIGHTERS IN CERTAIN MUNICIPALITIES. (a) This section applies only to firefighters employed by a municipality with a population of one million or more that has not adopted Chapter 174 and to which Chapter 143 does not apply.

(b) In this section:

(1) "Business leave" means leave taken for the purpose of attending to the business of an employee organization.

(2) "Employee organization" includes:

(A) the Dallas Fire Fighters Association;

(B) the Dallas Black Fire Fighters Association; and

(C) the Dallas Hispanic Firefighters Association.

(c) If the constitution and bylaws of an employee organization authorize the employee organization to participate in the establishment and maintenance of a business leave time account as provided by this section, a firefighter who is a member of an employee organization may donate not more than one hour of accumulated vacation or compensatory time for each calendar quarter to the business leave time account of the employee organization to which the firefighter belongs. The municipality shall establish and maintain a separate business leave time account for each employee organization that has approved or ratified the use of business leave time by its members under this section and has a specific provision

in the constitution and bylaws of that employee organization.

(c-1) Donations to the business leave time account of an employee organization by its members may be authorized in one of the following ways:

(1) if the majority of the membership of the employee organization has not affirmatively voted to require contributions by the employee organization's members to its business leave time account:

(A) a firefighter must authorize the donation in writing on a form provided by the employee organization and approved by the municipality; and

(B) after receiving the signed authorization on an approved form, the municipality shall transfer donated time to the account monthly until the municipality receives the firefighter's written revocation of the authorization; or

(2) if the majority of the membership of the employee organization has affirmatively voted to require contributions by the employee organization's members to its business leave time account:

(A) except as provided by Paragraph (C), the municipality shall transfer donated time to the employee organization's business leave time account from the accumulated vacation or compensatory time of each firefighter who is a member of the employee organization in the amount approved by vote of the employee organization not to exceed the amount allowed under Subsection (c);

(B) the municipality shall transfer the donated time to the account monthly beginning with the first calendar month that begins after the date of the employee organization vote requiring contributions;

(C) each year, during the period beginning on the 60th day before the anniversary of the first day of the first calendar month in which donations were first transferred to the business leave time account of the employee organization under Paragraph (B) and ending on the 30th day before that anniversary, a firefighter who is a member of the employee organization may inform the municipality in writing on a form provided by the employee organization and approved by the municipality that the firefighter chooses to not donate time to the account during the 12-month period beginning with that anniversary; and

(D) the employee organization shall make up for the

costs which incurred during the business leave by payment to the municipality in the amount equal to the overtime, pension and healthcare costs associated with replacing the firefighter on business leave.

(d) Only a firefighter who is a member of an employee organization may use for business leave purposes the time donated to the account of the employee organization. A firefighter may use for business leave purposes the time donated under this section without receiving a reduction in salary and without reimbursing the municipality.

(e) A request to use for business leave purposes the time in an employee organization's time account must be in writing and be submitted to the municipality by the president or the equivalent officer of the employee organization or by that officer's designee.

(f) The municipality shall grant a request for business leave that complies with Subsection (e) unless:

(1) denial of the request is necessary because of an emergency; or

(2) a grant of the request will result in having an insufficient number of firefighters to carry out the normal functions of the municipality.

(g) The municipality shall account for the time donated to each account and used from each account. The municipality shall credit and debit an account on an hour-for-hour basis regardless of the cash value of the time donated or used.

(h) Repealed by Acts 2023, 88th Leg., R.S., Ch. 751 (H.B. 3980), Sec. 2, eff. September 1, 2023.

(i) The use of business leave by a firefighter under this section is not a break in service for any purpose and is treated as any other paid leave.

Added by Acts 2011, 82nd Leg., R.S., Ch. 734 (H.B. 1057), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 751 (H.B. 3980), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 751 (H.B. 3980), Sec. 2, eff. September 1, 2023.

SUBCHAPTER B. LOCAL CONTROL OF POLICE OFFICER EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.051. APPLICABILITY. (a) Except as provided by Subsection (b), this subchapter applies only to:

(1) a municipality, and a police officer in a municipality, with a population of 50,000 or more;

(2) a municipality, and a police officer in a municipality, that has adopted Chapter 143; or

(3) a police officer not covered by a collective bargaining agreement adopted under Chapter 174 in a municipality that has adopted Chapter 174 for police officers in the police department, and the municipality that appoints or employs such a police officer.

(b) This subchapter does not apply to:

(1) a police officer who is covered by a collective bargaining agreement adopted under Chapter 174;

(2) a police officer who is covered by an agreement adopted under Subchapter H, I, or J, Chapter 143;

(3) a municipality that has a population of one million or more and has not adopted Chapter 143; or

(4) a municipality that has adopted Subchapter I, Chapter 143, in an election authorized by Section 143.3015.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1305 (S.B. 772), Sec. 1, eff. September 1, 2007.

Sec. 142.052. DEFINITIONS. In this subchapter:

(1) "Police officer" means a person who is a peace officer under Article 2A.001, Code of Criminal Procedure, or other law, and who is employed by a municipality.

(2) "Police officers association" means an employee organization in which police officers employed by a municipality participate that exists for the purpose, in whole or in part, of dealing with the municipality or public employer concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting police officers.

(3) "Public employer" means a municipality or a law

enforcement agency of the municipality that is required to establish the wages, salaries, rates of pay, hours of work, working conditions, and other terms and conditions of employment of police officers employed by the municipality.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.139, eff. January 1, 2025.

Sec. 142.053. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from a police officers association a petition signed by the majority of all police officers, excluding the head of the law enforcement agency for the municipality and excluding the employees exempt under Section 142.058(b), that requests recognition of the association as the sole and exclusive bargaining agent for all the police officers employed by the municipality, excluding the head of the law enforcement agency for the municipality and excluding the exempt employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.055;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.055 regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under Section 142.054 to determine whether the association represents a majority of the affected police officers.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the affected police officers of the municipality, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.055; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.055 regarding whether a public employer may meet and confer under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.054. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 142.053(a)(3) to determine whether a police officers association represents a majority of the covered police officers shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) The association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the police officers eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of the election.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.055. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 142.053 may order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal police officers as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.053 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.056. CHANGE OR MODIFICATION OF RECOGNITION. (a) The police officers may modify or change the recognition of the association granted under this subchapter by filing with the governing body of the municipality a petition signed by a majority of all covered police officers.

(b) The governing body of the municipality may:

(1) recognize the change or modification as provided by the petition; or

(2) order a certification election in accordance with Section 142.054 regarding whether to do so.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.057. STRIKES PROHIBITED. (a) A police officer employed by a municipality may not engage in a strike or organized work stoppage against this state or the municipality.

(b) A police officer who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the police officer may have as a result of the officer's employment or prior employment with the municipality.

(c) This section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.058. RECOGNITION OF POLICE OFFICERS ASSOCIATION. (a) A public employer in a municipality that chooses to meet and confer under this subchapter shall recognize an association that is recognized under Section 142.053 or 142.054 as the sole and exclusive bargaining agent for the covered police officers described in the petition for recognition, excluding the head of the law enforcement agency and excluding the employees exempt under Subsection (b), in accordance with this subchapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are the employees appointed by the head of the law enforcement agency of the municipality under Section 143.014 or that are exempt by the mutual agreement of the recognized police officers association and the public employer.

(c) The public employer shall recognize the police officers association until recognition of the association is withdrawn, in accordance with Section 142.056, by a majority of the police officers eligible to sign a petition for recognition.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.059. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) A municipality acting under this subchapter may not be denied local

control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent the public employer and the police officers association recognized as the sole and exclusive bargaining agent under this subchapter agree as provided by this subchapter, if the agreement is ratified and not withdrawn in accordance with this subchapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the meet and confer agreement.

(b) A meet and confer agreement under this subchapter must be written.

(c) This subchapter does not require a public employer or a recognized police officers association to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized police officers association may meet and confer only if the association does not advocate an illegal strike by public employees.

(e) While a meet and confer agreement under this subchapter between the public employer and the recognized police officers association is in effect, the public employer may not accept a petition, with regard to the police officers of the municipality requesting an election to adopt:

(1) municipal civil service under Chapter 143; or

(2) collective bargaining under Chapter 174.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.060. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) The public employer's chief executive officer or the chief executive officer's designee shall select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of police officers by the municipality.

(b) A police officers association may designate one or more persons to negotiate or bargain on the association's behalf.

(c) A municipality's bargaining unit is composed of all the police officers of the municipality who are not the head of the law enforcement agency or exempt under Section 142.058(b).

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.061. PROTECTED RIGHTS OF POLICE OFFICER. (a) For any disciplinary appeal, a member of the municipality's bargaining unit may be represented by the police officers association or by any person the member selects.

(b) A meet and confer agreement ratified under this subchapter may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.062. OPEN RECORDS. (a) A proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ready to be ratified by the governing body of the municipality.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used in connection with the agreement.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.063. OPEN DELIBERATIONS. (a) Deliberations relating to a meet and confer agreement or proposed agreement under this subchapter between representatives of the public employer and representatives of the police officers association elected by a majority vote of the officers to be the sole and exclusive bargaining agent of the covered officers must be open to the public and comply with state law.

(b) Subsection (a) may not be construed to prohibit the representatives of the public employer or the representatives of the police officers association from conducting private caucuses that are not open to the public during meet and confer negotiations.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.064. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) An agreement under this subchapter is enforceable and binding on the public employer, the recognized police officers association, and the police officers covered by the meet and confer agreement only if:

(1) the governing body of the municipality ratified the agreement by a majority vote; and

(2) the recognized police officers association ratified the agreement by conducting a secret ballot election at which the majority of the police officers who would be covered by the agreement favored ratifying the agreement.

(b) A meet and confer agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.065. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that granted recognition of a police officers

association under Section 142.053 without conducting an election under Section 142.055 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association; and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of a police officers association after conducting an election under Section 142.055 may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 142.055.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal police officers as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.053 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff.

September 1, 2005.

Sec. 142.066. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the recognized police officers association, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on _____ (date agreement was ratified) by the _____ (name of the governing body of the municipality) and the police officers employed by the City of _____ (name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. A written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the law enforcement agency or municipality or by a division or agent of the municipality, such as a personnel board or a civil service

commission.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.068. EFFECT ON EXISTING BENEFITS AND RIGHTS. (a) This subchapter may not be construed as repealing any existing benefit provided by statute or ordinance concerning police officers' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments, except as expressly provided in a ratified meet and confer agreement. This subchapter is in addition to the benefits provided by existing statutes and ordinances.

(b) This subchapter may not be construed to interfere with a police officer's constitutionally protected rights of freedom of speech, freedom of association, and freedom to endorse or dissent from any agreement.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

SUBCHAPTER C. LOCAL CONTROL OF FIREFIGHTER EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.101. APPLICABILITY. (a) Except as provided by Subsection (b), this subchapter applies only to a municipality:

(1) with a population of 50,000 or more; or

(2) that has adopted Chapter 143.

(b) This subchapter does not apply to a municipality that:

(1) has adopted Chapter 174;

(2) is covered by Subchapter H, I, or J, Chapter 143; or

(3) has a population of one million or more and has not adopted Chapter 143.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.102. DEFINITIONS. In this subchapter:

(1) "Firefighter" means a person who is defined as fire protection personnel under Section 419.021, Government Code, and who

is employed by a municipality.

(2) "Firefighters association" means an employee organization in which firefighters employed by a municipality participate that exists for the purpose, in whole or in part, of dealing with the municipality or public employer concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting firefighters.

(3) "Public employer" means a municipality or the fire department of the municipality that is required to establish the wages, salaries, rates of pay, hours of work, working conditions, and other terms and conditions of employment of firefighters employed by the municipality.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.103. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from a firefighters association a petition signed by the majority of all firefighters, excluding the head of the fire department for the municipality and excluding the employees exempt under Section 142.108(b), that requests recognition of the association as the sole and exclusive bargaining agent for all the firefighters employed by the municipality, excluding the head of the fire department for the municipality and excluding the exempt employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and determine by majority vote regarding whether a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.105;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.105 regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under Section 142.104 to determine whether the association represents a majority of the affected firefighters.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the affected firefighters of the municipality, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.105; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.105 regarding whether a public employer may meet and confer under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.104. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 142.103(a)(3) to determine whether a firefighters association represents a majority of the covered firefighters shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) The association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the firefighters eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of the election.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.105. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 142.103 may order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.103 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.106. CHANGE OR MODIFICATION OF RECOGNITION. (a) The firefighters may modify or change the recognition of the association granted under this subchapter by filing with the governing body of the municipality a petition signed by a majority of all covered firefighters.

(b) The governing body of the municipality may:

(1) recognize the change or modification as provided by the

petition; or

(2) order a certification election in accordance with Section 142.104 regarding whether to do so.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.107. STRIKES PROHIBITED. (a) A firefighter employed by a municipality may not engage in a strike or organized work stoppage against this state or the municipality.

(b) A firefighter who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the firefighter may have as a result of the person's employment or prior employment with the municipality.

(c) This section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.108. RECOGNITION OF FIREFIGHTERS ASSOCIATION. (a) A public employer in a municipality that chooses to meet and confer under this subchapter shall recognize an association that is recognized under Section 142.103 or 142.104 as the sole and exclusive bargaining agent for the covered firefighters described in the petition for recognition, excluding the head of the fire department and excluding the employees exempt under Subsection (b), in accordance with this subchapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are the employees appointed by the head of the fire department of the municipality under Section 143.014 or that are exempt by the mutual agreement of the recognized firefighters association and the public employer.

(c) The public employer shall recognize the firefighters association until recognition of the association is withdrawn, in accordance with Section 142.106, by a majority of the firefighters eligible to sign a petition for recognition.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.109. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) A municipality acting under this subchapter may not be denied local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent the public employer and the firefighters association recognized as the sole and exclusive bargaining agent under this subchapter agree as provided by this subchapter, if the agreement is ratified and not withdrawn in accordance with this subchapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the meet and confer agreement.

(b) A meet and confer agreement under this subchapter must be written.

(c) This subchapter does not require a public employer or a recognized firefighters association to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized firefighters association may meet and confer only if the association does not advocate an illegal strike by public employees.

(e) While a meet and confer agreement under this subchapter between the public employer and the recognized firefighters association is in effect, the public employer may not accept a petition, with regard to the firefighters of the municipality requesting an election to adopt:

(1) municipal civil service under Chapter 143; or

(2) collective bargaining under Chapter 174.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.110. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) The public employer's chief executive officer or the chief executive officer's designee shall select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of

firefighters by the municipality.

(b) A firefighters association may designate one or more persons to negotiate or bargain on the association's behalf.

(c) A municipality's bargaining unit is composed of all the firefighters of the municipality who are not the head of the fire department or exempt under Section 142.108(b).

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.111. PROTECTED RIGHTS OF FIREFIGHTER. (a) For any disciplinary appeal, a member of the municipality's bargaining unit may be represented by the firefighters association or by any person the member selects.

(b) A meet and confer agreement ratified under this subchapter may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.112. OPEN RECORDS. (a) A proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ready to be ratified by the governing body of the municipality.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used in connection with the agreement.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.113. OPEN DELIBERATIONS. (a) A deliberation relating to meeting and conferring between a public employer and a firefighters association, a deliberation relating to an agreement or proposed agreement under this subchapter by a quorum of a firefighters association authorized to meet and confer, or a deliberation by a quorum of the sole and exclusive bargaining agent of the public employer authorized to meet and confer must be open to the public and comply with state law.

(b) Subsection (a) may not be construed to prohibit the representative of the public employer or the representatives of the firefighters association from conducting private caucuses that are not open to the public during meet and confer negotiations.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.114. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) An agreement under this subchapter is enforceable and binding on the public employer, the recognized firefighters association, and the firefighters covered by the meet and confer agreement only if:

(1) the governing body of the municipality ratified the agreement by a majority vote; and

(2) the recognized firefighters association ratified the agreement by conducting a secret ballot election at which only the firefighters of the municipality in the association were eligible to vote, and a majority of the votes cast at the election favored ratifying the agreement.

(b) A meet and confer agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. The court may issue proper restraining orders, temporary and permanent

injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.115. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that granted recognition of a firefighters association under Section 142.103 without conducting an election under Section 142.105 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association; and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of a firefighters association after conducting an election under Section 142.105 may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 142.105.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.103 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.116. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the recognized firefighters association, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on _____ (date agreement was ratified) by the _____ (name of the governing body of the municipality) and the firefighters employed by the City of _____ (name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.117. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. A written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the fire department or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.118. PREEMPTION OF OTHER LAW. (a) This subchapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by a municipality.

(b) Section 617.002, Government Code, does not apply to an agreement made or an action taken under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.119. EFFECT ON EXISTING BENEFITS. This subchapter may not be construed as repealing any existing benefit provided by statute or ordinance concerning firefighters' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments, except as expressly provided in a ratified meet and confer agreement. This subchapter is in addition to the benefits provided by existing statutes and ordinances.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

SUBCHAPTER D. LOCAL CONTROL OF EMERGENCY MEDICAL SERVICES PERSONNEL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.151. APPLICABILITY. This subchapter applies only to a municipality:

(1) with a population of 460,000 or more that operates under a city manager form of government; and

(2) that employs emergency medical services personnel in a municipal department other than the fire department.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.152. DEFINITIONS. In this subchapter:

(1) "Association" means an organization in which emergency medical services personnel participate and that exists for the purpose, wholly or partly, of dealing with one or more public or private employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment affecting public employees.

(2) "Emergency medical services personnel" has the meaning assigned by Section 773.003, Health and Safety Code. The term applies only to an individual certified under Chapter 773, Health and Safety Code.

(3) "Public employer" means a municipality or an agency, board, commission, or political subdivision controlled by a municipality that is required to establish the wages, salaries, rates of pay, hours of employment, working conditions, and other terms and conditions of employment of public employees. The term, under appropriate circumstances, may include a mayor, manager, municipal administrator, municipal governing body, director of personnel, personnel board, or one or more other officials, regardless of the name by which an official is designated.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.153. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) A municipality may not be denied local control over wages, salaries, rates of pay, hours of employment, other terms and conditions of employment, or other personnel issues on which the public employer and an association that is recognized as the sole and exclusive bargaining agent under Section 142.155 for all emergency medical services personnel in the municipality agree. The applicable statutes, local ordinances, and civil service rules govern a term or condition of employment on which the public employer and the

association do not agree.

(b) An agreement under this subchapter must be written.

(c) This subchapter does not require the public employer and an association to meet and confer or reach an agreement on any issue.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.154. STRIKES PROHIBITED. (a) A public employer and an association recognized as the sole and exclusive bargaining agent under Section 142.155 may meet and confer only if the association does not advocate the illegal right to strike by public employees.

(b) Emergency medical services personnel of a municipality may not engage in a strike or organized work stoppage against this state or a political subdivision of this state.

(c) Emergency medical services personnel who participate in a strike forfeit all civil service rights, reemployment rights, and other rights, benefits, or privileges enjoyed as a result of employment or previous employment with the municipality.

(d) This section does not affect the right of a person to cease employment if the person is not acting in concert with other emergency medical services personnel.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.155. RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL ASSOCIATION. (a) The governing body of a municipality may recognize an association that submits a petition signed by a majority of the emergency medical services personnel in the municipality, excluding the head of the emergency medical services department and any person who is exempt under Subsection (b), as the sole and exclusive bargaining agent for all of the covered emergency medical services personnel until recognition of the association is withdrawn by a majority of the covered emergency medical services personnel.

(b) For purposes of Subsection (a), exempt employees are assistant department heads in the rank or classification immediately below that of the department head and any other employees who are designated as exempt or whose job titles are designated as exempt by

the mutual agreement of the recognized association and the public employer.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.003, eff. September 1, 2009.

Sec. 142.156. ELECTION. (a) Whether an association represents a majority of the covered emergency medical services personnel shall be resolved by a fair election, conducted according to procedures agreed on by the parties, at which only a person eligible to sign a petition under Section 142.155 may vote.

(b) If the parties are unable to agree on election procedures under Subsection (a), a party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election under this subsection resolves the question concerning representation.

(c) The association shall pay the costs of an election under this section, except that if two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the covered emergency medical services personnel, the associations shall share equally the costs of the election.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.1565. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) If the governing body of a municipality does not recognize an association that submits a petition under Section 142.155 and that has been determined by the governing body or under Section 142.156 to represent a majority of the covered emergency medical services personnel, the governing body shall order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the

municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal emergency medical services personnel as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election ordered under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.155 before the second anniversary of the date of the election.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.157. SELECTION OF BARGAINING AGENTS. The public employer's manager or chief executive, as appropriate, and the head of the emergency medical services department shall designate a group of persons to represent the public employer as its sole and exclusive bargaining agent.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.158. OPEN RECORDS REQUIRED. (a) A proposed agreement and any document prepared and used by the municipality in connection with a proposed agreement are available to the public under the public information law, Chapter 552, Government Code, only after the agreement is ratified by the municipality's governing body.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used by

the municipality in connection with the agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.159. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) An agreement made under this subchapter between a public employer and an association is binding on the public employer, the association, and the emergency medical services personnel covered by the agreement if:

(1) the municipality's governing body ratifies the agreement by a majority vote; and

(2) the association recognized under Section 142.155 ratifies the agreement by a majority vote of its members voting in an election by secret ballot at which only members of the association who are eligible to sign a petition under Section 142.155 may vote.

(b) An agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on interpretation of the agreement.

(c) The state district court of the judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified agreement on the application of a party to the agreement aggrieved by an act or omission of the other party. The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including a contempt order, that is appropriate to enforce the agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.160. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) An agreement under this subchapter supersedes a previous statute concerning wages, salaries, rates of pay, hours of employment, or other terms and conditions of employment to the extent of any conflict with the statute.

(b) An agreement under this subchapter preempts any contrary executive order, local ordinance, or rule adopted by this state or a

political subdivision or agent of this state, including a personnel board, a civil service commission, or a municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this chapter or other law unless approved by a majority vote by secret ballot of the members of the association recognized under Section 142.155 at which only members of the association who are eligible to sign a petition under Section 142.155 may vote.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.1605. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that granted recognition of an association under Section 142.155 without conducting an election under Section 142.1565 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association; and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of an association after conducting an election under Section 142.1565 may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 142.1565.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing

municipal emergency medical services personnel as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.155 before the second anniversary of the date of the election.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.161. REPEAL OF AGREEMENT BY ELECTORATE. (a) Not later than the 45th day after the date an agreement is ratified by both the municipality and the association, a petition signed by at least 10 percent of the qualified voters of the municipality may be presented to the municipal secretary calling for an election to repeal the agreement.

(b) On receipt by the municipal secretary of a petition described by Subsection (a), the governing body of the municipality shall reconsider the agreement and either repeal the agreement or call an election of the qualified voters of the municipality to determine if the voters favor repealing the agreement. The election shall be called for the next election held in the municipality that allows sufficient time to comply with applicable provisions of law or at a special election called by the governing body for that purpose.

(c) If at the election a majority of the votes cast favor repeal of the adoption of the agreement, the agreement is void.

(d) The ballot for an election under this section shall be printed to permit voting for or against the proposition: "Repeal of the adoption of the agreement ratified by the municipality and the emergency medical services personnel association concerning wages, salaries, rates of pay, hours of employment, and other terms and

conditions of employment."

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.162. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. (a) For the purpose of any disciplinary appeal, a member of the association may choose to be represented by any person of the member's choice or by the association.

(b) An agreement may not interfere with the right of a member of the association to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the civil rights division of the Texas Workforce Commission or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.163. BINDING INTEREST ARBITRATION. (a) A municipality may be required to submit to binding interest arbitration only if approved by a majority of those voting in a public referendum conducted in accordance with the municipality's charter.

(b) Subsection (a) does not affect any disciplinary arbitration or arbitration provision in a ratified agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

CHAPTER 143. MUNICIPAL CIVIL SERVICE FOR FIREFIGHTERS AND POLICE OFFICERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 143.001. PURPOSE. (a) The purpose of this chapter is to secure efficient fire and police departments composed of capable personnel who are free from political influence and who have permanent employment tenure as public servants.

(b) The members of the Fire Fighters' and Police Officers'

Civil Service Commission shall administer this chapter in accordance with this purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.002. MUNICIPALITIES COVERED BY CHAPTER. (a) This chapter applies only to a municipality:

(1) that:

(A) has a population of 10,000 or more;

(B) has a paid fire department or police department; and

(C) has voted to adopt this chapter or the law codified by this chapter; or

(2) whose election to adopt this chapter and whose acts subsequent to that election were validated by the law enacted by House Bill 822, Acts of the 73rd Legislature, Regular Session, 1993.

(b) Population under Subsection (a)(1) is determined by the most recent:

(1) federal decennial census; or

(2) annual population estimate provided by the state demographer under Chapter 468, Government Code, if that estimate is more recent than the most recent federal decennial census.

(c) If this chapter applies to a municipality as provided by Subsection (a), the application of this chapter to the municipality is not affected if the municipality's population changes and the municipality no longer meets the population requirement of Subsection (a)(1).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 576, Sec. 1, eff. Aug. 30, 1993. Amended by:

Acts 2005, 79th Leg., Ch. 212 (H.B. 1913), Sec. 1, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 1163 (H.B. 3409), Sec. 1, eff. June 18, 2005.

Sec. 143.003. DEFINITIONS. In this chapter:

(1) "Civilian oversight board" means a board or office established by a municipality to practice oversight, monitoring, or

investigations of fire fighters or police officers, or departments, by members of the public who are not fire fighters or police officers.

(1-a) "Commission" means the Fire Fighters' and Police Officers' Civil Service Commission.

(2) "Department head" means the chief or head of a fire or police department or that person's equivalent, regardless of the name or title used.

(3) "Director" means the director of fire fighters' and police officers' civil service.

(4) "Fire fighter" means a member of a fire department who was appointed in substantial compliance with this chapter or who is entitled to civil service status under Section 143.005 or 143.084. The term:

(A) applies only to an employee of a fire department whose position requires substantial knowledge of fire fighting and who has met the requirements for certification by the Texas Commission on Fire Protection under Chapter 419, Government Code, including an employee who performs:

(i) fire suppression;

(ii) fire prevention;

(iii) fire training;

(iv) fire safety education;

(v) fire maintenance;

(vi) fire communications;

(vii) fire medical emergency technology;

(viii) fire photography;

(ix) fire administration; or

(x) fire arson investigation; and

(B) does not apply to a secretary, clerk, budget analyst, custodial engineer, or other administrative employee.

(5) "Police officer" means a member of a police department or other peace officer who was appointed in substantial compliance with this chapter or who is entitled to civil service status under Section 143.005, 143.084, or 143.103.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 498, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 738 (H.B. 2640), Sec. 1, eff. September

1, 2005.

Acts 2025, 89th Leg., R.S., Ch. 867 (S.B. 1957), Sec. 1, eff. June 20, 2025.

Sec. 143.004. ELECTION TO ADOPT OR REPEAL CHAPTER. (a) A municipality may hold an election to adopt or repeal this chapter as provided by this section.

(b) If the governing body of the municipality receives a petition requesting an election that is signed by a number of qualified voters of the municipality equal to at least 10 percent of the number of voters who voted in the most recent municipal election, the governing body shall order an election submitting to the voters the question of whether this chapter should be adopted. The election must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the petition is filed and that allows sufficient time to comply with other requirements of law.

(c) The ballot shall be printed to provide for voting for or against the proposition: "Adoption of the fire fighters' and police officers' civil service law." However, this chapter may be adopted to apply only to the fire or police department, and in that case, the ballot shall be printed to reflect the department that would be covered by this chapter. If a majority of the votes received in the election are in favor of adoption of this chapter, the governing body shall implement this chapter.

(d) If an election is held under Subsection (b), a petition for a subsequent election to be held under that subsection may not be filed for at least one year after the date the previous election was held. To be valid, a petition for a subsequent election must contain the signatures of a number of qualified voters of the municipality equal to at least 20 percent of the number of voters who voted in the most recent municipal election. Any subsequent election must be held at the next general municipal election that occurs after the petition is filed.

(e) If the governing body of a municipality with a population of less than 50,000 that has operated under this chapter for at least one year receives a petition requesting an election to repeal this chapter that is signed by at least 10 percent of the qualified voters of the municipality, the governing body shall order an election

submitting to the voters the question on whether this chapter should be repealed. If a majority of the qualified voters vote to repeal this chapter, this chapter is void in that municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 874 (H.B. 4227), Sec. 1, eff. September 1, 2023.
Acts 2025, 89th Leg., R.S., Ch. 600 (H.B. 2713), Sec. 1, eff. June 20, 2025.

Sec. 143.005. STATUS OF EMPLOYEES IF CHAPTER ADOPTED. (a) Each fire fighter or police officer serving in a municipality that adopts this chapter and who has been in the service of the municipality for more than six months at the time this chapter is adopted and who is entitled to civil service classification has the status of a civil service employee and is not required to take a competitive examination to remain in the position the person occupies at the time of the adoption.

(b) In a municipality that adopts this chapter, an employee of the fire department whose primary duties are to provide emergency medical services for the municipality is considered to be a fire fighter who is a member of the fire department performing fire medical emergency technology, entitled to civil service protection, and covered by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 1034 (H.B. 1126), Sec. 7, eff. September 1, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 129 (H.B. 263), Sec. 1

For text of section as added by Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 1, see other Sec. 143.0051.

Sec. 143.0051. STATUS OF EMPLOYEES IN CERTAIN FIRE DEPARTMENTS. (a) This section applies only to a fire department employee employed by a municipality with a population of 220,000 or more. This section

does not apply to a fire department employee employed by a municipality:

(1) that has adopted Chapter 174; or

(2) to which Subchapter H or I applies.

(b) Notwithstanding any other provision of this chapter, a previously non-classified fire department employee who serves in a position described by Section 143.003(4)(B), (D), (G), or (J) has the status of a civil service employee and is not required to take a competitive examination to remain in the employee's position if:

(1) the employee was appointed to that position on or before May 1, 2005, and was serving in that position on the date described by Subsection (c); and

(2) the municipality's governing body by ordinance amends the municipality's existing classification of fire department employees to include the employee's position as provided by Section 143.021.

(c) The civil service status of an employee to which Subsection (b) applies is effective on the date that the ordinance amending the municipality's classification system to include the employee's position takes effect.

(d) A fire department employee who has civil service status under Subsection (b) may be promoted only:

(1) by competitive examination in accordance with the competitive civil service procedures prescribed in this chapter; and

(2) within the employee's existing division.

(e) A fire department employee who has civil service status under Subsection (b) may not:

(1) supervise or evaluate classified civil service personnel assigned to fire suppression or emergency medical operations; or

(2) laterally transfer to fire suppression or emergency medical operations.

(f) If a fire department employee who has civil service status under Subsection (b) leaves the employee's position for any reason, a person selected to fill that position must be selected in accordance with the competitive civil service procedures prescribed in this chapter.

Added by Acts 2005, 79th Leg., Ch. 129 (H.B. 263), Sec. 1, eff. May 24, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 869 (S.B. 1050), Sec. 1

For text of section as added by Acts 2005, 79th Leg., Ch. 129 (H.B. 263), Sec. 1, see other Sec. 143.0051.

Sec. 143.0051. STATUS OF EMPLOYEES IN CERTAIN FIRE DEPARTMENTS. (a) This section applies only to a fire department employee employed by a municipality with a population of 150,000 or more and with a governing body of five or fewer members.

(b) Notwithstanding any other provision of this chapter, a previously nonclassified fire department employee who serves in a position described by Section 143.003(4)(B), (D), (G), or (J) has the status of a civil service employee and is not required to take a competitive examination to remain in the employee's position if:

(1) the employee was appointed to that position on or before May 1, 2005, and was serving in that position on the date described by Subsection (c); and

(2) the municipality's governing body by ordinance amends the municipality's existing classification of fire department employees to include the employee's position as provided by Section 143.021.

(c) The civil service status of an employee to which Subsection (b) applies is effective on the date that the ordinance amending the municipality's classification system to include the employee's position takes effect.

(d) A fire department employee who has civil service status under Subsection (b) may be promoted only:

(1) by competitive examination in accordance with the competitive civil service procedures prescribed in this chapter; and

(2) within the employee's existing division.

(e) A fire department employee who has civil service status under Subsection (b) may not:

(1) supervise or evaluate classified civil service personnel assigned to fire suppression or emergency medical operations; or

(2) laterally transfer to fire suppression or emergency medical operations.

(f) If a fire department employee who has civil service status

under Subsection (b) leaves the employee's position for any reason, a person selected to fill that position must be selected in accordance with the competitive civil service procedures prescribed in this chapter.

Added by Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 1, eff. September 1, 2005.

Sec. 143.0052. FEE FOR EMERGENCY MEDICAL SERVICES. (a) This section applies only to a municipality that:

(1) has a population of more than 220,000 and less than 275,000;

(2) is located in a county in which another municipality that has a population of more than one million is predominately located; and

(3) whose emergency medical services are administered by a fire department.

(b) By resolution of its governing body, a municipality may establish a monthly fee for the costs of emergency medical services, including salary and overtime related to medical personnel. This fee is applicable to each and every customer served by a municipal water account and may be collected in conjunction with the bill for water services.

(c) A municipality acting under this section supersedes any authority established under Chapter 286, Health and Safety Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1415 (S.B. 1896), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 69, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 131, eff. September 1, 2023.

Sec. 143.006. IMPLEMENTATION: COMMISSION. (a) On adoption of this chapter, the Fire Fighters' and Police Officers' Civil Service Commission is established in the municipality. The chief executive of the municipality shall appoint the members of the commission within 60 days after the date this chapter is adopted. Within 30

days after the date the municipality's first full fiscal year begins after the date of the adoption election, the governing body of the municipality shall implement this chapter.

(b) The commission consists of three members appointed by the municipality's chief executive and confirmed by the governing body of the municipality. Members serve staggered three-year terms with the term of one member expiring each year. If a vacancy occurs or if an appointee fails to qualify within 10 days after the date of appointment, the chief executive shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(c) A person appointed to the commission must:

(1) be of good moral character;

(2) be a United States citizen;

(3) be a resident of the municipality who has resided in the municipality for more than three years;

(4) be over 25 years of age; and

(5) not have held a public office within the preceding three years.

(c-1) Notwithstanding Subsection (c)(5), the municipality's chief executive may reappoint a commission member to consecutive terms. A commission member may not be reappointed to more than a third consecutive term unless the member's reappointment to a fourth or subsequent consecutive term is confirmed by a two-thirds majority of all the members of the municipality's governing body.

(c-2) Subsection (c)(5) does not prohibit the municipality's chief executive from appointing a former commission member to the commission if the only public office held by the former member within the preceding three years is membership on:

(1) the commission; or

(2) the commission and the municipality's civil service board for employees other than police officers and firefighters through a joint appointment to the commission and board.

(c-3) Subsections (c-1) and (c-2) do not apply to a municipality with a population of 1.5 million or more.

(d) In making initial appointments, the chief executive shall designate one member to serve a one-year term, one member to serve a two-year term, and one member to serve a three-year term. If a municipality has a civil service commission immediately before this chapter takes effect in that municipality, that civil service

commission shall continue as the commission established by this section and shall administer the civil service system as prescribed by this chapter. As the terms of the members of the previously existing commission expire, the chief executive shall appoint members as prescribed by this section. If necessary to create staggered terms as prescribed by this section, the chief executive shall appoint the initial members, required to be appointed under this chapter, to serve terms of less than three years.

(e) Initial members shall elect a chairman and a vice-chairman within 10 days after the date all members have qualified. Each January, the members shall elect a chairman and a vice-chairman.

(f) The governing body of the municipality shall provide to the commission adequate and suitable office space in which to conduct business.

(g) The chief executive of a municipality commits an offense if the chief executive knowingly or intentionally fails to appoint the initial members of the commission within the 60-day period prescribed by Subsection (a). An offense under this subsection is a misdemeanor punishable by a fine of not less than $100 or more than $200. Each day after the 60-day period that the chief executive knowingly or intentionally fails to make a required appointment constitutes a separate offense.

(h) The chief executive of a municipality or a municipal official commits an offense if the person knowingly or intentionally refuses to implement this chapter or attempts to obstruct the enforcement of this chapter. An offense under this subsection is a misdemeanor punishable by a fine of not less than $100 or more than $200.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 475 (H.B. 150), Sec. 1, eff. June 17, 2005.

Sec. 143.007. REMOVAL OF COMMISSION MEMBER. (a) If at a meeting held for that purpose the governing body of the municipality finds that a commission member is guilty of misconduct in office, the governing body may remove the member. The member may request that the meeting be held as an open hearing in accordance with Chapter

551, Government Code.

(b) If a commission member is indicted or charged by information with a criminal offense involving moral turpitude, the member shall be automatically suspended from office until the disposition of the charge. Unless the member pleads guilty or is found to be guilty, the member shall resume office at the time of disposition of the charge.

(c) The governing body may appoint a substitute commission member during a period of suspension. If a member pleads guilty to or is found to be guilty of a criminal offense involving moral turpitude, the governing body shall appoint a replacement commission member to serve the remainder of the disqualified member's term of office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(82), eff. Sept. 1, 1995.

Sec. 143.008. ADOPTION AND PUBLICATION OF RULES. (a) A commission shall adopt rules necessary for the proper conduct of commission business.

(b) The commission may not adopt a rule permitting the appointment or employment of a person who is:

(1) without good moral character;

(2) physically or mentally unfit; or

(3) incompetent to discharge the duties of the appointment or employment.

(c) The commission shall adopt rules that prescribe cause for removal or suspension of a fire fighter or police officer. The rules must comply with the grounds for removal prescribed by Section 143.051.

(d) The commission shall publish each rule it adopts and each classification and seniority list for the fire and police departments. The rules and lists shall be made available on demand. A rule is considered to be adopted and sufficiently published if the commission adopts the rule by majority vote and causes the rule to be written, typewritten, or printed. Publication in a newspaper is not required and the governing body of the municipality is not required to act on the rule.

(e) A rule is not valid and binding on the commission until the

commission:

(1) mails a copy of the rule to the commissioner, if the municipality has an elected commissioner, and to department heads of the fire and police departments;

(2) posts a copy of the rule for a seven-day period at a conspicuous place in the central fire and police stations; and

(3) mails a copy of the rule to each branch fire station.

(f) The director shall keep copies of all rules for free distribution to members of the fire and police departments who request copies and for inspection by any interested person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.009. COMMISSION INVESTIGATIONS AND INSPECTIONS. (a) The commission or a commission member designated by the commission may investigate and report on all matters relating to the enforcement and effect of this chapter and any rules adopted under this chapter and shall determine if the chapter and rules are being obeyed.

(b) During an investigation, the commission or the commission member may:

(1) administer oaths;

(2) issue subpoenas to compel the attendance of witnesses and the production of books, papers, documents, and accounts relating to the investigation; and

(3) cause the deposition of witnesses residing inside or outside the state.

(c) A deposition taken in connection with an investigation under this section must be taken in the manner prescribed by law for taking a similar deposition in a civil action in federal district court.

(d) An oath administered or a subpoena issued under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(e) A person who fails to respond to a subpoena issued under this section commits an offense punishable as prescribed by Section 143.016.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.010. COMMISSION APPEAL PROCEDURE. (a) Except as otherwise provided by this chapter, if a fire fighter or police officer wants to appeal to the commission from an action for which an appeal or review is provided by this chapter, the fire fighter or police officer need only file an appeal with the commission within 10 days after the date the action occurred.

(b) The appeal must include the basis for the appeal and a request for a commission hearing. The appeal must also contain a statement denying the truth of the charge as made, a statement taking exception to the legal sufficiency of the charge, a statement alleging that the recommended action does not fit the offense or alleged offense, or a combination of these statements.

(c) In each hearing, appeal, or review of any kind in which the commission performs an adjudicatory function, the affected fire fighter or police officer is entitled to be represented by counsel or a person the fire fighter or police officer chooses. Each commission proceeding shall be held in public.

(d) The commission may issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

(e) The affected fire fighter or police officer may request the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the fire fighter or police officer considers pertinent to the case. The fire fighter or police officer must make the request before the 10th day before the date the commission hearing will be held. If the commission does not subpoena the material, the commission shall, before the third day before the date the hearing will be held, make a written report to the fire fighter or police officer stating the reason it will not subpoena the requested material. This report shall be read into the public record of the commission hearing.

(f) Witnesses may be placed under the rule at the commission hearing.

(g) The commission shall conduct the hearing fairly and impartially as prescribed by this chapter and shall render a just and fair decision. The commission may consider only the evidence submitted at the hearing.

(h) The commission shall maintain a public record of each proceeding with copies available at cost.

(i) In addition to the requirements prescribed by this section,

an appeal to the commission in a municipality with a population of 1.5 million or more must meet the requirements prescribed by Section 143.1015.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1248, Sec. 48, eff. Sept. 1, 1989.

Sec. 143.011. DECISIONS AND RECORDS. (a) Each concurring commission member shall sign a decision issued by the commission.

(b) The commission shall keep records of each hearing or case that comes before the commission.

(c) Each rule, opinion, directive, decision, or order issued by the commission must be written and constitutes a public record that the commission shall retain on file.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.012. DIRECTOR. (a) On adoption of this chapter, the office of Director of Fire Fighters' and Police Officers' Civil Service is established in the municipality. The commission shall appoint the director. The director shall serve as secretary to the commission and perform work incidental to the civil service system as required by the commission. The commission may remove the director at any time.

(b) A person appointed as director must meet each requirement for appointment to the commission prescribed by Section 143.006(c), except that in a municipality with a population of less than 1.5 million, the person is not required to meet the local residency requirement.

(c) A person appointed as director may be a commission member, a municipal employee, or some other person.

(d) The municipality's governing body shall determine the salary, if any, to be paid to the director.

(e) If, immediately before this chapter takes effect in a municipality, the municipality has a duly and legally constituted director of civil service, regardless of title, that director shall continue in office as the director established by this section and shall administer the civil service system as prescribed by this

chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 355, Sec. 1, eff. Sept. 1, 1999.

Sec. 143.013. APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD. (a) Unless elected, each department head is:

(1) appointed by the municipality's chief executive and confirmed by the municipality's governing body; or

(2) in a municipality having an elected fire or police commissioner, appointed by the fire or police commissioner in whose department the vacancy exists and confirmed by the municipality's governing body.

(b) A person appointed as head of a fire department must be eligible for certification by the Texas Commission on Fire Protection at the intermediate level or its equivalent as determined by that commission and must have served as a fully paid fire fighter for at least five years. A person appointed as head of a police department must be eligible for certification by the Texas Commission on Law Enforcement at the intermediate level or its equivalent as determined by that commission and must have served as a bona fide law enforcement officer for at least five years.

(c) Except as provided by Subsection (d), if a person is removed from the position of department head, the person shall be reinstated in the department and placed in a position with a rank not lower than that held by the person immediately before appointment as department head. The person retains all rights of seniority in the department.

(d) If a person serving as department head is charged with an offense in violation of civil service rules and is dismissed from the civil service or discharged from his position as department head, the person has the same rights and privileges of a hearing before the commission and in the same manner and under the same conditions as a classified employee. If the commission finds that the charges are untrue or unfounded, the person shall immediately be restored to the same classification that the person held before appointment as department head. The person has all the rights and privileges of the prior position according to seniority and shall be paid his full salary for the time of suspension.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.48, eff. May 18, 2013.

Sec. 143.014. APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If approved by the governing body of the municipality by resolution or ordinance, the head of a fire or police department in the municipality in which at least four classifications exist below the classification of department head may appoint each person occupying an authorized position in the classification immediately below that of department head, as prescribed by this section. The classification immediately below that of department head may include a person who has a different title but has the same pay grade.

(c) In a police department, the total number of persons appointed to the classification immediately below that of department head may not exceed the total number of persons, plus one, serving in that classification on January 1, 1983. In a fire department in a municipality having fewer than 300 certified fire fighters, the department head may appoint not more than one person to the classification immediately below that of department head. If a municipality has 300 to 600 certified fire fighters, the department head may appoint two persons to the classification. If a municipality has more than 600 certified fire fighters, the department head may appoint three persons to the classification. This subsection does not apply to a municipality that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes) unless the municipality specifically adopts the appointment procedure prescribed by this subsection through the collective bargaining process.

(d) A person appointed to a position in the classification immediately below that of the head of the police department must:

(1) be employed by the municipality's police department as a sworn police officer;

(2) have at least two years' continuous service in that department as a sworn police officer; and

(3) meet the requirements for appointment as head of a

police department prescribed by Section 143.013(b).

(e) A person appointed to a position in the classification immediately below that of the head of the fire department must:

(1) be employed by the municipality's fire department;

(2) have a permanent classification in at least an officer level; and

(3) meet the requirements for appointment as head of a fire department prescribed by Section 143.013(b).

(f) The department head shall make each appointment under this section within 90 days after the date a vacancy occurs in the position.

(g) A person appointed under this section serves at the pleasure of the department head. A person who is removed from the position by the department head shall be reinstated in the department and placed in the same classification, or its equivalent, that the person held before appointment. The person retains all rights of seniority in the department.

(h) If a person appointed under this section is charged with an offense in violation of civil service rules and indefinitely suspended by the department head, the person has the same rights and privileges of a hearing before the commission in the same manner and under the same conditions as a classified employee. If the commission, a hearing examiner, or a court of competent jurisdiction finds the charges to be untrue or unfounded, the person shall immediately be restored to the same classification, or its equivalent, that the person held before appointment. The person has all the rights and privileges of the prior position according to seniority, and shall be repaid for any lost wages.

(i) A person serving under permanent appointment in a position in the classification immediately below that of the department head on September 1, 1983, is not required to meet the requirements of this section or to be appointed or reappointed as a condition of tenure or continued employment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.015. APPEAL OF COMMISSION DECISION TO DISTRICT COURT. (a) If a fire fighter or police officer is dissatisfied with any commission decision, the fire fighter or police officer may file a

petition in district court asking that the decision be set aside. The petition must be filed within 10 days after the date the final commission decision:

(1) is sent to the fire fighter or police officer by certified mail; or

(2) is personally received by the fire fighter or police officer or by that person's designee.

(b) An appeal under this section is by trial de novo. The district court may grant the appropriate legal or equitable relief necessary to carry out the purposes of this chapter. The relief may include reinstatement or promotion with back pay if an order of suspension, dismissal, or demotion is set aside.

(c) The court may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.

(d) If the court finds for the fire fighter or police officer, the court shall order the municipality to pay lost wages to the fire fighter or police officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.016. PENALTY FOR VIOLATION OF CHAPTER. (a) A fire fighter or police officer commits an offense if the person violates this chapter.

(b) An offense under this section or Section 143.009 is a misdemeanor punishable by a fine of not less than $10 or more than $100, confinement in the county jail for not more than 30 days, or both fine and confinement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. CLASSIFICATION AND APPOINTMENT

Sec. 143.021. CLASSIFICATION; EXAMINATION REQUIREMENT. (a) The commission shall provide for the classification of all fire fighters and police officers. The municipality's governing body shall establish the classifications by ordinance. The governing body by ordinance shall prescribe the number of positions in each classification.

(b) Except for the department head and a person the department

head appoints in accordance with Section 143.014 or 143.102, each fire fighter and police officer is classified as prescribed by this subchapter and has civil service protection. The failure of the governing body to establish a position by ordinance does not result in the loss of civil service benefits by a person entitled to civil service protection or appointed to the position in substantial compliance with this chapter.

(c) Except as provided by Sections 143.013, 143.014, 143.0251, 143.102, and 143.1251, an existing position or classification or a position or classification created in the future either by name or by increase in salary may be filled only from an eligibility list that results from an examination held in accordance with this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 64, Sec. 1, eff. Sept. 1, 1995.

Sec. 143.022. PHYSICAL REQUIREMENTS AND EXAMINATIONS. (a) The commission shall set the age and physical requirements for applicants for beginning and promotional positions in accordance with this chapter. The requirements must be the same for all applicants.

(b) The commission shall require each applicant for a beginning or a promotional position to take an appropriate physical examination. The commission may require each applicant for a beginning position to take a mental examination. The examination shall be administered by a physician, psychiatrist, or psychologist, as appropriate, appointed by the commission. The municipality shall pay for each examination.

(c) If an applicant is rejected by the physician, psychiatrist, or psychologist, as appropriate, the applicant may request another examination by a board of three physicians, psychiatrists, or psychologists, as appropriate, appointed by the commission. The applicant must pay for the board examination. The board's decision is final.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(b), eff. Aug. 28, 1989.

Sec. 143.023. ELIGIBILITY FOR BEGINNING POSITION. (a) A person may not take an entrance examination for a beginning position

in the police department unless the person is at least 18 years of age. A person may not take an entrance examination for a beginning position in the fire department unless the person is at least 18 years of age but not 36 years of age or older.

(b) A person may not be certified as eligible for a beginning position in a fire department if the person is 36 years of age or older.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 1, eff. September 1, 2023.

(d) An applicant may not be certified as eligible for a beginning position with a fire department unless the applicant meets all legal requirements necessary to become eligible for future certification by the Commission on Fire Protection Personnel Standards and Education.

(e) An applicant may not be certified as eligible for a beginning position with a police department unless the applicant meets all legal requirements necessary to become eligible for future licensing by the Texas Commission on Law Enforcement.

(f) Each police officer and fire fighter affected by this chapter must be able to read and write English.

(g) In addition to meeting the requirements prescribed by this section, an applicant for a beginning position in a police department in a municipality with a population of 1.5 million or more must meet the requirements prescribed by Section 143.105.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 380 (S.B. 1421), Sec. 1, eff. June 17, 2005.

Acts 2009, 81st Leg., R.S., Ch. 273 (S.B. 461), Sec. 1, eff. May 30, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.49, eff. May 18, 2013.

Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 1, eff. September 1, 2023.

Sec. 143.024. ENTRANCE EXAMINATION NOTICE. (a) Before the 10th day before the date an entrance examination is held, the commission shall cause a notice of the examination to be posted in

plain view on a bulletin board located in the main lobby of the city hall and in the commission's office. The notice must show the position to be filled or for which the examination is to be held, and the date, time, and place of the examination.

(b) The notice required by Subsection (a) must also state the period during which the eligibility list created as a result of the examination will be effective.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.025. ENTRANCE EXAMINATIONS. (a) The commission shall provide for open, competitive, and free entrance examinations to provide eligibility lists for beginning positions in the fire and police departments. The examinations are open to each person who makes a proper application and meets the requirements prescribed by this chapter.

(b) An eligibility list for a beginning position in the fire or police department may be created only as a result of a competitive examination held in the presence of each applicant for the position, except as provided by Subsections (d), (e), and (l). The examination must be based on the person's general knowledge and aptitude and must inquire into the applicant's general education and mental ability. A person may not be appointed to the fire or police department except as a result of the examination.

(c) An applicant may not take an examination unless at least one other applicant taking the examination is present.

(d) Examinations for beginning positions in the fire department may be held at different locations if each applicant takes the same examination and is examined in the presence of other applicants.

(e) This subsection applies only in a municipality to which Subchapter J does not apply. An examination for beginning positions in the police department must be held at one or more locations in the municipality in which the police department is located and may be held at additional locations outside the municipality. An examination held at multiple locations must be administered on the same day and at the same time at each location at which it is given. Only one eligibility list for a police department may be created from that examination, and only one eligibility list may be in effect at a given time. Each applicant who takes the examination for the

eligibility list shall:

(1) take the same examination; and

(2) be examined in the presence of other applicants for that eligibility list.

(f) An additional five points shall be added to the examination grade of an applicant who served in the United States armed forces, received an honorable discharge, and made a passing grade on the examination.

(g) An applicant may not take the examination for a particular eligibility list more than once.

(h) The commission shall keep each eligibility list for a beginning position in effect for a period of not less than six months or more than 12 months, unless the names of all applicants on the list have been referred to the appropriate department. The commission shall determine the length of the period. The commission shall give new examinations at times the commission considers necessary to provide required staffing for scheduled fire or police training academies.

(i) The grade to be placed on the eligibility list for each applicant shall be computed by adding an applicant's points under Subsection (f), if any, to the applicant's grade on the written examination. Each applicant's grade on the written examination is based on a maximum grade of 100 percent and is determined entirely by the correctness of the applicant's answers to the questions. The minimum passing grade on the examination is 70 percent. An applicant must pass the examination to be placed on an eligibility list.

(j) Notwithstanding Subsection (i), each applicant who is either a natural-born or adopted child of a fire fighter who previously suffered a line-of-duty death while covered by this chapter shall be ranked at the top of any eligibility list in which said applicant receives a minimum passing grade on that respective eligibility exam. The deceased fire fighter's applicant child must otherwise satisfy all of the requirements for eligibility for a beginning position in a fire department contained in this chapter. This commission shall promulgate rules to identify and verify each applicant's eligibility for applicability of this subsection.

(k) This section does not apply to a police department located in a municipality with a population of 1.5 million or more.

(l) In a municipality with a population of more than 1.4 million and less than 2 million, an examination for a beginning

position in the fire department may include testing instruments to be used in addition to the written examination in the establishment of the initial eligibility list.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 756, Sec. 1, 2, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 19, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 628, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 380 (S.B. 1421), Sec. 2, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 27 (S.B. 339), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 503 (H.B. 1488), Sec. 1, eff. June 17, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 132, eff. September 1, 2023.

Sec. 143.0251. REAPPOINTMENT AFTER RESIGNATION. The commission may adopt rules to allow a police officer who voluntarily resigns from the department to be reappointed to the department without taking another departmental entrance examination.

Added by Acts 1995, 74th Leg., ch. 64, Sec. 2, eff. Sept. 1, 1995.

Sec. 143.026. PROCEDURE FOR FILLING BEGINNING POSITIONS. (a) When a vacancy occurs in a beginning position in a fire or police department, the department head shall request in writing from the commission the names of suitable persons from the eligibility list. The director shall certify to the municipality's chief executive the names of the three persons having the highest grades on the eligibility list.

(b) From the three names certified, the chief executive shall appoint the person having the highest grade unless there is a valid reason why the person having the second or third highest grade should be appointed.

(c) If the chief executive does not appoint the person having the highest grade, the chief executive shall clearly set forth in writing the good and sufficient reason why the person having the

highest grade was not appointed.

(d) The reason required by Subsection (c) shall be filed with the commission and a copy provided to the person having the highest grade. If the chief executive appoints the person having the third highest grade, a copy of the report shall also be furnished to the person having the second highest grade.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.027. PROBATIONARY PERIOD. (a) A person appointed to a beginning position in the fire or police department must serve a probationary period of one year beginning on that person's date of employment as a fire fighter, police officer, or academy trainee. In a municipality with a population of less than 1.9 million, the commission by rule may extend the probationary period by not more than six months for a person who:

(1) is not employed by a department in which a collective bargaining agreement or a meet-and-confer agreement currently exists or previously existed; and

(2) is required to attend a basic training academy for initial certification by the Texas Commission on Fire Protection or the Texas Commission on Law Enforcement.

(b) During a fire fighter's or police officer's probationary period, the department head shall discharge the person and remove the person from the payroll if the person's appointment was not regular or was not made in accordance with this chapter or the commission rules.

(c) During a fire fighter's or police officer's probationary period, the person may not be prohibited from joining or required to join an employee organization. Joining or not joining an employee organization is not a ground for retaining or not retaining a fire fighter or police officer serving a probationary period.

(d) A fire fighter or police officer who was appointed in substantial compliance with this chapter and who serves the entire probationary period automatically becomes a full-fledged civil service employee and has full civil service protection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 2, eff. September

1, 2005.

Acts 2005, 79th Leg., Ch. 909 (H.B. 148), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 11.001, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.50, eff. May 18, 2013.

Sec. 143.028. ELIGIBILITY FOR PROMOTION. (a) Except as provided by Sections 143.013 and 143.102, a fire fighter is not eligible for promotion unless the person has served in that fire department in the next lower position or other positions specified by the commission for at least two years at any time before the date the promotional examination is held. A fire fighter is not eligible for promotion to the rank of captain or its equivalent unless the person has at least four years' actual service in that fire department.

(b) Except as provided by Sections 143.013 and 143.102, a police officer is not eligible for promotion unless the person has served in that police department in the next lower position or other positions specified by the commission for at least two years immediately before the date the promotional examination is held. A police officer is not eligible for promotion to the rank of captain or its equivalent unless the person has at least four years' actual service in that police department.

(c) If a person is recalled on active military duty for not more than 60 months, the two-year service requirements prescribed by Subsections (a) and (b) do not apply and the person is entitled to have time spent on active military duty considered as duty in the respective fire or police department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 833 (S.B. 863), Sec. 2, eff. June 17, 2005.

Sec. 143.029. PROMOTIONAL EXAMINATION NOTICE. (a) Before the 90th day before the date a promotional examination is held, the commission shall post a notice that lists the sources from which the

examination questions will be taken.

(b) Before the 30th day before the date a promotional examination is held, the commission shall post a notice of the examination in plain view on a bulletin board located in the main lobby of the city hall and in the commission's office. The notice must show the position to be filled or for which the examination is to be held, and the date, time, and place of the examination. The commission shall also furnish sufficient copies of the notice for posting in the stations or subdepartments in which the position will be filled.

(c) The notice required by Subsection (b) may also include the name of each source used for the examination, the number of questions taken from each source, and the chapter used in each source.

(d) In addition to the notice prescribed by this section, a municipality with a population of 1.5 million or more must post the notice prescribed by Section 143.107.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.030. ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) Each promotional examination is open to each fire fighter who at any time has continuously held for at least two years a position in the classification that is immediately below, in salary, the classification for which the examination is to be held.

(c) If the department has adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each fire fighter who has continuously held for at least two years a position at the next lower pay grade, if it exists, in the classification for which the examination is to be held.

(d) If there are not enough fire fighters in the next lower position with two years' service in that position to provide an adequate number of persons to take the examination, the commission may open the examination to persons in that position with less than two years' service. If there is still an insufficient number, the commission may open the examination to persons with at least two years' experience in the second lower position, in salary, to the

position for which the examination is to be held.

(e) If a fire fighter had previously terminated the fire fighter's employment with the department and is subsequently reemployed by the same department, the fire fighter must again meet the two-year service requirement for eligibility to take a promotional examination. In determining if a fire fighter has met the two-year service requirement, a fire department may not consider service in another fire department.

(f) This section does not prohibit lateral crossover between classes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.031. ELIGIBILITY FOR POLICE DEPARTMENT PROMOTIONAL EXAMINATION. (a) Each promotional examination is open to each police officer who for at least two years immediately before the examination date has continuously held a position in the classification that is immediately below, in salary, the classification for which the examination is to be held.

(b) If the department has adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each police officer who has continuously held for at least two years immediately before the examination date a position at the next lower pay grade, if it exists, in the classification for which the examination is to be held.

(c) If there are not sufficient police officers in the next lower position with two years' service in that position to provide an adequate number of persons to take the examination, the commission shall open the examination to persons in that position with less than two years' service. If there is still an insufficient number, the commission may open the examination to persons in the second lower position, in salary, to the position for which the examination is to be held.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.032. PROMOTIONAL EXAMINATION PROCEDURE. (a) The commission shall adopt rules governing promotions and shall hold

promotional examinations to provide eligibility lists for each classification in the fire and police departments. Unless a different procedure is adopted under an alternate promotional system as provided by Section 143.035, the examinations shall be held substantially as prescribed by this section.

(b)(1) Each eligible promotional candidate shall be given an identical examination in the presence of the other eligible promotional candidates, except that an eligible promotional candidate who is serving on active military duty outside of this state or in a location that is not within reasonable geographic proximity to the location where the examination is being administered is entitled to take the examination outside of the presence of and at a different time than the other candidates and may be allowed to take an examination that is not identical to the examination administered to the other candidates.

(2) The commission may adopt rules under Subsection (a) providing for the efficient administration of promotional examinations to eligible promotional candidates who are members of the armed forces serving on active military duty. In adopting the rules, the commission shall ensure that the administration of the examination will not result in unnecessary interference with any ongoing military effort. The rules shall require that:

(A) at the discretion of the administering entity, an examination that is not identical to the examination administered to other eligible promotional candidates may be administered to an eligible promotional candidate who is serving on active military duty; and

(B) if a candidate serving on active military duty takes a promotional examination outside the presence of other candidates and passes the examination, the candidate's name shall be included in the eligibility list of names of promotional candidates who took and passed the examination nearest in time to the time at which the candidate on active military duty took the examination.

(c) The examination must be entirely in writing and may not in any part consist of an oral interview.

(d) The examination questions must test the knowledge of the eligible promotional candidates about information and facts and must be based on:

(1) the duties of the position for which the examination is held;

(2) material that is of reasonably current publication and that has been made reasonably available to each member of the fire or police department involved in the examination; and

(3) any study course given by the departmental schools of instruction.

(e) The examination questions must be taken from the sources posted as prescribed by Section 143.029(a). Fire fighters or police officers may suggest source materials for the examinations.

(f) The examination questions must be prepared and composed so that the grading of the examination can be promptly completed immediately after the examination is over.

(g) The director is responsible for the preparation and security of each promotional examination. The fairness of the competitive promotional examination is the responsibility of the commission, the director, and each municipal employee involved in the preparation or administration of the examination.

(h) A person commits an offense if the person knowingly or intentionally:

(1) reveals a part of a promotional examination to an unauthorized person; or

(2) receives from an authorized or unauthorized person a part of a promotional examination for unfair personal gain or advantage.

(i) An offense under Subsection (h) is a misdemeanor punishable by a fine of not less than $1,000, confinement in the county jail for not more than one year, or both the fine and the confinement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(c), eff. Aug. 28, 1989. Amended by:

Acts 2005, 79th Leg., Ch. 833 (S.B. 863), Sec. 1, eff. June 17, 2005.

Sec. 143.033. PROMOTIONAL EXAMINATION GRADES. (a) The grading of each promotional examination shall begin when one eligible promotional candidate completes the examination. As the eligible promotional candidates finish the examination, the examinations shall be graded at the examination location and in the presence of any candidate who wants to remain during the grading.

(b) Each police officer is entitled to receive one point for each year of seniority as a classified police officer in that department, with a maximum of 10 points. Each fire fighter is entitled to receive one point for each year of seniority in that department, with a maximum of 10 points.

(c) Unless a different procedure is adopted under an alternate promotional system as provided by Section 143.035, the grade that must be placed on the eligibility list for each police officer or fire fighter shall be computed by adding the applicant's points for seniority to the applicant's grade on the written examination, but for a fire fighter applicant only if the applicant scores a passing grade on the written examination. Each applicant's grade on the written examination is based on a maximum grade of 100 points and is determined entirely by the correctness of the applicant's answers to the questions. The passing grade in a municipality with a population of 1.5 million or more is prescribed by Section 143.108. In a municipality with a population of less than 1.5 million, all police officer applicants who receive a grade of at least 70 points shall be determined to have passed the examination and all fire fighter applicants who receive a grade on the written examination of at least 70 points shall be determined to have passed the examination. If a tie score occurs, the commission shall determine a method to break the tie.

(d) Within 24 hours after a promotional examination is held, the commission shall post the individual raw test scores on a bulletin board located in the main lobby of the city hall.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(d), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 713, Sec. 1, eff. Sept. 1, 1991.
Amended by:

Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 3, eff. September 1, 2005.

Sec. 143.034. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION. (a) On request, each eligible promotional candidate from the fire or police department is entitled to examine the person's promotional examination and answers, the examination grading, and the source material for the examination. If dissatisfied, the candidate may

appeal, within five business days, to the commission for review in accordance with this chapter. In computing this period, a Saturday, Sunday, or legal holiday is not considered a business day.

(b) The eligible promotional candidate may not remove the examination or copy a question used in the examination.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(e), eff. Aug. 28, 1989.

Sec. 143.035. ALTERNATE PROMOTIONAL SYSTEM IN POLICE DEPARTMENT. (a) This section does not apply to a municipality that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes).

(b) On the recommendation of the head of the police department and a majority vote of the sworn police officers in the department, the commission may adopt an alternate promotional system to select persons to occupy nonentry level positions other than positions that are filled by appointment by the department head. The promotional system must comply with the requirements prescribed by this section.

(c) The commission shall order the director to conduct an election and to submit the revised promotional system either to all sworn police officers within the rank immediately below the classification for which the promotional examination is to be administered or to all sworn police officers in the department.

(d) The director shall hold the election on or after the 30th day after the date notice of the election is posted at the department. The election shall be conducted throughout each regular work shift at an accessible location within the department during a 24-hour period.

(e) The ballot shall contain the specific amendment to the promotional procedure. Each sworn police officer shall be given the opportunity to vote by secret ballot "for" or "against" the amendment.

(f) The revised promotional system must be approved by a majority vote of the sworn police officers voting. A defeated promotional system amendment may not be placed on a ballot for a vote by the sworn police officers for at least 12 months after the date the prior election was held, but this provision does not apply if the head of the department recommends a different proposal to the

commission.

(g) The commission shall canvass the votes within 30 days after the date the election is held. An appeal alleging election irregularity must be filed with the commission within five working days after the date the election closes. If approved by the sworn police officers, the promotional system amendment becomes effective after all election disputes have been ruled on and the election votes have been canvassed by the commission.

(h) At any time after an alternate promotional system has been adopted under this section and has been in effect for at least 180 days, the department head may petition the commission to terminate the alternate system, and the commission shall terminate the alternate system.

(i) At any time after an alternate promotional system has been adopted under this section and has been in effect for at least 180 days, a petition signed by at least 35 percent of the sworn police officers may be submitted to the commission asking that the alternate promotional system be reconsidered. If a petition is submitted, the commission shall, within 60 days after the date the petition is filed, hold an election as prescribed by this section. If a majority of those voting vote to terminate, the commission shall terminate the alternate promotional system.

(j) If the alternate system is terminated, an additional list may not be created under the alternate system.

(k) A promotional list may not be created if an election under this section is pending. An existing eligibility list, whether created under the system prescribed by this chapter or created under an alternate system adopted under this section, may not be terminated before or extended beyond its expiration date. A person promoted under an alternate system has the same rights and the same status as a person promoted under this chapter even if the alternate system is later terminated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 1018, Sec. 1, eff. Aug. 30, 1993.

Sec. 143.036. PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS. (a) When a vacancy occurs in a nonentry position that is not appointed by the department head as provided by Sections 143.014 and

143.102, the vacancy shall be filled as prescribed by this section and Section 143.108, as applicable. A vacancy in a fire fighter position described by this subsection occurs on the date the position is vacated by:

(1) resignation;

(2) retirement;

(3) death;

(4) promotion; or

(5) issuance of an indefinite suspension in accordance with Section 143.052(b).

(b) If an eligibility list for the position to be filled exists on the date the vacancy occurs, the director, on request by the department head, shall certify to the department head the names of the three persons having the highest grades on that eligibility list. The commission shall certify the names within 10 days after the date the commission is notified of the vacancy. If fewer than three names remain on the eligibility list or if only one or two eligible promotional candidates passed the promotional examination, each name on the list must be submitted to the department head.

(c) In a municipality with a population of less than 1.5 million, the commission shall submit names from an existing eligibility list to the department head until the vacancy is filled or the list is exhausted.

(d) If an eligibility list does not exist on the date a vacancy occurs or a new position is created, the commission shall hold an examination to create a new eligibility list within 90 days after the date the vacancy occurs or a new position is created.

(e) If an eligibility list exists on the date a vacancy occurs, the department head shall fill the vacancy by permanent appointment from the eligibility list furnished by the commission within 60 days after the date the vacancy occurs. If an eligibility list does not exist, the department head shall fill the vacancy by permanent appointment from an eligibility list that the commission shall provide within 90 days after the date the vacancy occurs. This subsection does not apply in a municipality with a population of 1.5 million or more.

(f) Unless the department head has a valid reason for not appointing the person, the department head shall appoint the eligible promotional candidate having the highest grade on the eligibility list. If the department head has a valid reason for not appointing

the eligible promotional candidate having the highest grade, the department head shall personally discuss the reason with the person being bypassed before appointing another person. The department head shall also file the reason in writing with the commission and shall provide the person with a copy of the written notice. On application of the bypassed eligible promotional candidate, the reason the department head did not appoint that person is subject to review by the commission or, on the written request of the person being bypassed, by an independent third party hearing examiner under Section 143.057.

(g) If a person is bypassed, the person's name is returned to its place on the eligibility list and shall be resubmitted to the department head if a vacancy occurs. If the department head refuses three times to appoint a person, files the reasons for the refusals in writing with the commission, and the commission does not set aside the refusals, the person's name shall be removed from the eligibility list.

(h) Each promotional eligibility list remains in existence for one year after the date on which the written examination is given, unless exhausted. At the expiration of the one-year period, the eligibility list expires and a new examination may be held.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(f), eff. Aug. 28, 1989. Amended by:

Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 4, eff. September 1, 2005.

Sec. 143.037. RECORD OF CERTIFICATION AND APPOINTMENT. (a) When a person is certified and appointed to a position in the fire or police department, the director shall forward the appointed person's record to the proper department head. The director shall also forward a copy of the record to the chief executive and shall retain a copy in the civil service files.

(b) The record must contain:

(1) the date notice of examination for the position was posted;

(2) the date on which the appointed person took the examination;

(3) the name of each person who conducted the examination;

(4) the relative position of the appointed person on the eligibility list;

(5) the date the appointed person took the physical examination, the name of the examining physician, and whether the person was accepted or rejected;

(6) the date the request to fill the vacancy was made;

(7) the date the appointed person was notified to report for duty; and

(8) the date the appointed person's pay is to start.

(c) If the director intentionally fails to comply with this section, the commission shall immediately remove the director from office.

(d) The director's failure to comply with this section does not affect the civil service status of an employee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.038. TEMPORARY DUTIES IN HIGHER CLASSIFICATION. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) The department head may designate a person from the next lower classification to temporarily fill a position in a higher classification. The designated person is entitled to the base salary of the higher position plus the person's own longevity or seniority pay, educational incentive pay, and certification pay during the time the person performs the duties.

(c) The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by this chapter may not be construed as a promotion.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. COMPENSATION

Sec. 143.041. SALARY. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) Except as provided by Section 143.038, all fire fighters or police officers in the same classification are entitled to the same base salary.

(c) In addition to the base salary, each fire fighter or police officer is entitled to each of the following types of pay, if applicable:

(1) longevity or seniority pay;

(2) educational incentive pay as authorized by Section 143.044;

(3) assignment pay as authorized by Sections 143.042 and 143.043;

(4) certification pay as authorized by Section 143.044;

(5) shift differential pay as authorized by Section 143.047; and

(6) fitness incentive pay as authorized by Section 143.044.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1172, Sec. 1, eff. Aug. 28, 1989. Amended by:

Acts 2005, 79th Leg., Ch. 552 (H.B. 1213), Sec. 1, eff. September 1, 2005.

Sec. 143.042. ASSIGNMENT PAY. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) The governing body of a municipality may authorize assignment pay for fire fighters and police officers who perform specialized functions in their respective departments.

(c) The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire or police department.

(d) If the ordinance applies equally to each person who meets the criteria established by the ordinance, the ordinance may provide for payment to each fire fighter and police officer who meets training or education criteria for an assignment or the ordinance may set criteria that provide for payment only to a fire fighter or police officer in a special assignment.

(e) The head of the fire or police department is not eligible for the assignment pay authorized by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.043. FIELD TRAINING OFFICER ASSIGNMENT PAY. (a) In

this section, "field training officer" means a member of the police department who is assigned to and performs the duties and responsibilities of the field training officers program.

(b) The governing body of a municipality may authorize assignment pay for field training officers. The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the police department.

(c) The department head is not eligible for the assignment pay authorized by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.044. CERTIFICATION, EDUCATIONAL INCENTIVE, AND FITNESS INCENTIVE PAY. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If each fire fighter or police officer in a municipality is afforded an opportunity to qualify for certification, the municipality's governing body may authorize certification pay to those fire fighters who meet the requirements for certification set by the Texas Commission on Fire Protection or for those police officers who meet the requirements for certification set by the Texas Commission on Law Enforcement.

(c) If the criteria for educational incentive pay are clearly established, are in writing, and are applied equally to each fire fighter or police officer in a municipality who meets the criteria, the municipality's governing body may authorize educational incentive pay for each fire fighter or police officer who has successfully completed courses at an accredited college or university.

(d) If the criteria for fitness incentive pay are clearly established, are in writing, and are applied equally to each fire fighter or police officer in a municipality who meets the criteria, the municipality's governing body may authorize fitness incentive pay for each fire fighter or police officer who successfully meets the criteria.

(e) The certification pay, educational incentive pay, and fitness incentive pay are in addition to a fire fighter's or police officer's regular pay.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 552 (H.B. 1213), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 552 (H.B. 1213), Sec. 3, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.51, eff. May 18, 2013.

Sec. 143.045. ACCUMULATION AND PAYMENT OF SICK LEAVE. (a) A permanent or temporary fire fighter or police officer is allowed sick leave with pay accumulated at the rate of 1-1/4 full working days for each full month employed in a calendar year, so as to total 15 working days to a person's credit each 12 months.

(b) A fire fighter or police officer may accumulate sick leave without limit and may use the leave if unable to work because of a bona fide illness. If an ill fire fighter or police officer exhausts the sick leave and can conclusively prove that the illness was incurred in the performance of duties, an extension of sick leave shall be granted.

(c) Except as otherwise provided by Section 143.116, a fire fighter or police officer who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the person's salary for accumulated sick leave if the person has accumulated not more than 90 days of sick leave. If a fire fighter or police officer has accumulated more than 90 working days of sick leave, the person's employer may limit payment to the amount that the person would have received if the person had been allowed to use 90 days of accumulated sick leave during the last six months of employment. The lump-sum payment is computed by compensating the fire fighter or police officer for the accumulated time at the highest permanent pay classification for which the person was eligible during the last six months of employment. The fire fighter or police officer is paid for the same period for which the person would have been paid if the person had taken the sick leave but does not include additional holidays and any sick leave or vacation time that the person might have accrued during the 90 days.

(d) To facilitate the settlement of the accounts of deceased fire fighters and police officers, all unpaid compensation, including all accumulated sick leave, due at the time of death to an active

fire fighter or police officer who dies as a result of a line-of-duty injury or illness, shall be paid to the persons in the first applicable category of the following prioritized list:

(1) to the beneficiary or beneficiaries the fire fighter or police officer designated in writing to receive the compensation and filed with the commission before the person's death;

(2) to the fire fighter's or police officer's widow or widower;

(3) to the fire fighter's or police officer's child or children and to the descendants of a deceased child, by representation;

(4) to the fire fighter's or police officer's parents or to their survivors; or

(5) to the properly appointed legal representative of the fire fighter's or police officer's estate, or in the absence of a representative, to the person determined to be entitled to the payment under the state law of descent and distribution.

(e) Payment of compensation to a person in accordance with Subsection (d) is a bar to recovery by another person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.046. VACATIONS. (a) Each fire fighter or police officer is entitled to earn a minimum of 15 working days' vacation leave with pay in each year.

(b) In computing the length of time a fire fighter or police officer may be absent from work on vacation leave, only those calendar days during which the person would be required to work if not on vacation may be counted as vacation days.

(c) Unless approved by the municipality's governing body, a fire fighter or police officer may not accumulate vacation leave from year to year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.047. SHIFT DIFFERENTIAL PAY. (a) The governing body of a municipality may authorize shift differential pay for fire fighters and police officers who work a shift in which more than 50 percent of the time worked is after 6 p.m. and before 6 a.m.

(b) The shift differential pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire or police department.

Added by Acts 1989, 71st Leg., ch. 1172, Sec. 3, eff. Aug. 28, 1989.

SUBCHAPTER D. DISCIPLINARY ACTIONS

Sec. 143.051. CAUSE FOR REMOVAL OR SUSPENSION. A commission rule prescribing cause for removal or suspension of a fire fighter or police officer is not valid unless it involves one or more of the following grounds:

(1) conviction of a felony or other crime involving moral turpitude;

(2) violations of a municipal charter provision;

(3) acts of incompetency;

(4) neglect of duty;

(5) discourtesy to the public or to a fellow employee while the fire fighter or police officer is in the line of duty;

(6) acts showing lack of good moral character;

(7) drinking intoxicants while on duty or intoxication while off duty;

(8) conduct prejudicial to good order;

(9) refusal or neglect to pay just debts;

(10) absence without leave;

(11) shirking duty or cowardice at fires, if applicable; or

(12) violation of an applicable fire or police department rule or special order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.052. DISCIPLINARY SUSPENSIONS. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) The head of the fire or police department may suspend a fire fighter or police officer under the department head's supervision or jurisdiction for the violation of a civil service rule. The suspension may be for a reasonable period not to exceed 15 calendar days or for an indefinite period. An indefinite suspension is equivalent to dismissal from the department.

(c) If the department head suspends a fire fighter or police officer, the department head shall, within 120 hours after the hour of suspension, file a written statement with the commission giving the reasons for the suspension. The department head shall immediately deliver a copy of the statement in person to the suspended fire fighter or police officer.

(d) The copy of the written statement must inform the suspended fire fighter or police officer that if the person wants to appeal to the commission, the person must file a written appeal with the commission within 10 days after the date the person receives the copy of the statement.

(e) The written statement filed by the department head with the commission must point out each civil service rule alleged to have been violated by the suspended fire fighter or police officer and must describe the alleged acts of the person that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated.

(f) If the department head does not specifically point out in the written statement the act or acts of the fire fighter or police officer that allegedly violated the civil service rules, the commission shall promptly reinstate the person.

(g) If offered by the department head, the fire fighter or police officer may agree in writing to voluntarily accept, with no right of appeal, a suspension of 16 to 90 calendar days for the violation of a civil service rule. The fire fighter or police officer must accept the offer within five working days after the date the offer is made. If the person refuses the offer and wants to appeal to the commission, the person must file a written appeal with the commission within 15 days after the date the person receives the copy of the written statement of suspension.

(h) In the original written statement and charges and in any hearing conducted under this chapter, the department head may not complain of an act that occurred earlier than the 180th day preceding the date the department head suspends the fire fighter or police officer. If the act is allegedly related to criminal activity including the violation of a federal, state, or local law for which the fire fighter or police officer is subject to a criminal penalty, the department head may not complain of an act that is discovered earlier than the 180th day preceding the date the department head

suspends the fire fighter or police officer. The department head must allege that the act complained of is related to criminal activity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(g), eff. Aug. 28, 1989.

Sec. 143.053. APPEAL OF DISCIPLINARY SUSPENSION. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If a suspended fire fighter or police officer appeals the suspension to the commission, the commission shall hold a hearing and render a decision in writing within 30 days after the date it receives notice of appeal. The suspended person and the commission may agree to postpone the hearing for a definite period.

(c) In a hearing conducted under this section, the department head is restricted to the department head's original written statement and charges, which may not be amended.

(d) The commission may deliberate the decision in closed session but may not consider evidence that was not presented at the hearing. The commission shall vote in open session.

(e) In its decision, the commission shall state whether the suspended fire fighter or police officer is:

(1) permanently dismissed from the fire or police department;

(2) temporarily suspended from the department; or

(3) restored to the person's former position or status in the department's classified service.

(f) If the commission finds that the period of disciplinary suspension should be reduced, the commission may order a reduction in the period of suspension. If the suspended fire fighter or police officer is restored to the position or class of service from which the person was suspended, the fire fighter or police officer is entitled to:

(1) full compensation for the actual time lost as a result of the suspension at the rate of pay provided for the position or class of service from which the person was suspended; and

(2) restoration of or credit for any other benefits lost as a result of the suspension, including sick leave, vacation leave, and

service credit in a retirement system. Standard payroll deductions, if any, for retirement and other benefits restored shall be made from the compensation paid, and the municipality shall make its standard corresponding contributions, if any, to the retirement system or other applicable benefit systems.

(g) The commission may suspend or dismiss a fire fighter or police officer only for violation of civil service rules and only after a finding by the commission of the truth of specific charges against the fire fighter or police officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 740, Sec. 1, eff. Sept. 1, 1999.

Sec. 143.054. DEMOTIONS. (a) If the head of the fire or police department wants a fire fighter or police officer under his supervision or jurisdiction to be involuntarily demoted, the department head may recommend in writing to the commission that the commission demote the fire fighter or police officer.

(b) The department head must include in the recommendation for demotion the reasons the department head recommends the demotion and a request that the commission order the demotion. The department head must immediately furnish a copy of the recommendation in person to the affected fire fighter or police officer.

(c) The commission may refuse to grant the request for demotion. If the commission believes that probable cause exists for ordering the demotion, the commission shall give the fire fighter or police officer written notice to appear before the commission for a public hearing at a time and place specified in the notice. The commission shall give the notice before the 10th day before the date the hearing will be held.

(d) The fire fighter or police officer is entitled to a full and complete public hearing, and the commission may not demote a fire fighter or police officer without that public hearing.

(e) A voluntary demotion in which the fire fighter or police officer has accepted the terms of the demotion in writing is not subject to this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.055. UNCOMPENSATED DUTY OF POLICE OFFICERS. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) In this section, "uncompensated duty" means days of police work without pay that are in addition to regular or normal work days.

(c) The head of the police department may assign a police officer under his jurisdiction or supervision to uncompensated duty. The department head may not impose uncompensated duty unless the police officer agrees to accept the duty. If the police officer agrees to accept uncompensated duty, the department head shall give the person a written statement that specifies the date or dates on which the person will perform uncompensated duty.

(d) Uncompensated duty may be in place of or in combination with a period of disciplinary suspension without pay. If uncompensated duty is combined with a disciplinary suspension, the total number of uncompensated days may not exceed 15.

(e) A police officer may not earn or accrue any wage, salary, or benefit arising from length of service while the person is suspended or performing uncompensated duty. The days on which a police officer performs assigned uncompensated duty may not be taken into consideration in determining eligibility for a promotional examination. A disciplinary suspension does not constitute a break in a continuous position or in service in the department in determining eligibility for a promotional examination.

(f) Except as provided by this section, a police officer who performs assigned uncompensated duty retains all rights and privileges of the person's position in the police department and of the person's employment by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.056. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT. (a) If a fire fighter or police officer is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the department head may temporarily suspend the person with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony indictment or misdemeanor complaint.

(b) The department head shall notify the suspended fire fighter

or police officer in writing that the person is being temporarily suspended for a specific period with or without pay and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.

(c) If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the department head may, within 30 days after the date of final disposition of the indictment or complaint, bring a charge against the fire fighter or police officer for a violation of civil service rules.

(d) A fire fighter or police officer indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the department head with civil service violations directly related to the indictment or complaint may delay the civil service hearing for not more than 30 days after the date of the final disposition of the indictment or complaint.

(e) If the department head temporarily suspends a fire fighter or police officer under this section and the fire fighter or police officer is not found guilty of the indictment or complaint in a court of competent jurisdiction, the fire fighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.

(f) Acquittal or dismissal of an indictment or a complaint does not mean that a fire fighter or police officer has not violated civil service rules and does not negate the charges that may have been or may be brought against the fire fighter or police officer by the department head.

(g) Conviction of a felony is cause for dismissal, and conviction of a Class A or B misdemeanor may be cause for disciplinary action or indefinite suspension.

(h) The department head may order an indefinite suspension based on an act classified as a felony or a Class A or B misdemeanor after the 180-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the person's conduct. If the department head intends to order an indefinite suspension after the 180-day period, the department head must file with the attorney general a statement describing the criminal

investigation and its objectives within 180 days after the date the act complained of occurred.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.057. HEARING EXAMINERS. (a) In addition to the other notice requirements prescribed by this chapter, the written notice for a promotional bypass or the letter of disciplinary action, as applicable, issued to a fire fighter or police officer must state that in an appeal of an indefinite suspension, a suspension, a promotional bypass, or a recommended demotion, the appealing fire fighter or police officer may elect to appeal to an independent third party hearing examiner instead of to the commission. The letter must also state that if the fire fighter or police officer elects to appeal to a hearing examiner, the person waives all rights to appeal to a district court except as provided by Subsection (j).

(b) To exercise the choice of appealing to a hearing examiner, the appealing fire fighter or police officer must submit to the director a written request as part of the original notice of appeal required under this chapter stating the person's decision to appeal to an independent third party hearing examiner.

(c) The hearing examiner's decision is final and binding on all parties. If the fire fighter or police officer decides to appeal to an independent third party hearing examiner, the person automatically waives all rights to appeal to a district court except as provided by Subsection (j).

(d) If the appealing fire fighter or police officer chooses to appeal to a hearing examiner, the fire fighter or police officer and the department head, or their designees, shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed, the director shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The fire fighter or police officer and the department head, or their designees, may agree on one of the seven neutral arbitrators on the list. If they do not agree within five working days after the date they received the list, each party or the party's designee shall

alternate striking a name from the list and the name remaining is the hearing examiner. The parties or their designees shall agree on a date for the hearing.

(e) The appeal hearing shall begin as soon as the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing within 45 calendar days after the date of selection, the fire fighter or police officer may, within two days after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed by Subsection (d).

(f) In each hearing conducted under this section, the hearing examiner has the same duties and powers as the commission, including the right to issue subpoenas.

(g) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall render a decision on the appeal within 10 days after the date the hearing ended.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall make a reasonable effort to render a decision on the appeal within 30 days after the date the hearing ends or the briefs are filed. The hearing examiner's inability to meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action, or the hearing examiner's final decision.

(i) The hearing examiner's fees and expenses are shared equally by the appealing fire fighter or police officer and by the department. The costs of a witness are paid by the party who calls the witness.

(j) A district court may hear an appeal of a hearing examiner's award only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the district court having jurisdiction in the municipality in which the fire or police department is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 5, eff. September 1, 2005.

SUBCHAPTER E. LEAVES

Sec. 143.071. LEAVES OF ABSENCE; RESTRICTION PROHIBITED. (a) If a sufficient number of fire fighters or police officers are available to carry out the normal functions of the fire or police department, a fire fighter or police officer may not be refused a reasonable leave of absence without pay to attend a fire or police school, convention, or meeting if the purpose of the school, convention, or meeting is to secure a more efficient department and better working conditions for department personnel.

(b) A rule that affects a fire fighter's or police officer's constitutional right to appear before or to petition the legislature may not be adopted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.072. MILITARY LEAVE OF ABSENCE. (a) On written application of a fire fighter or police officer, the commission shall grant the person a military leave of absence without pay, subject to Section 143.075, to enable the person to enter a branch of the United States military service. The leave of absence may not exceed the period of compulsory military service or the basic minimum enlistment period for the branch of service the fire fighter or police officer enters.

(b) The commission shall grant to a fire fighter or police officer a leave of absence for initial training or annual duty in the military reserves or the national guard.

(c) While a fire fighter or police officer who received a military leave of absence serves in the military, the commission shall fill the person's position in the department in accordance with this chapter.

(d) On termination of active military service, a fire fighter or police officer who received a military leave of absence under this section is entitled to be reinstated to the position that the person held in the department at the time the leave of absence was granted if the person:

(1) receives an honorable discharge;

(2) remains physically and mentally fit to discharge the duties of that position; and

(3) makes an application for reinstatement within 90 days

after the date the person is discharged from military service.

(e) On reinstatement, the fire fighter or police officer shall receive full seniority credit for the time spent in the military service.

(f) If the reinstatement of a fire fighter or police officer who received a military leave of absence causes a surplus in the rank to which the fire fighter or police officer was reinstated, the fire fighter or police officer who has the least seniority in the position shall be returned to the position immediately below the position to which the returning fire fighter or police officer was reinstated. If a fire fighter or police officer is returned to a lower position in grade or compensation under this subsection without charges being filed against the person for violation of civil service rules, the fire fighter or police officer shall be placed on a position reinstatement list in order of seniority. Appointments from the reinstatement list shall be made in order of seniority. A person who is not on the reinstatement list may not be appointed to a position to which the list applies until the list is exhausted.

(g) If a fire fighter or police officer employed by a municipality is called to active military duty for any period, the employing municipality must continue to maintain any health, dental, or life insurance coverage and any health or dental benefits coverage that the fire fighter or police officer received through the municipality on the date the fire fighter or police officer was called to active military duty until the municipality receives written instructions from the fire fighter or police officer to change or discontinue the coverage.

(h) In addition to other procedures prescribed by this section, a fire fighter or police officer may, without restriction as to the amount of time, voluntarily substitute for a fire fighter or police officer described by Sections 143.075(b)(1) and (2) who has been called to active federal military duty for a period expected to last 12 months or longer. A fire fighter or police officer who voluntarily substitutes under this subsection must be qualified to perform the duties of the absent fire fighter or police officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 287, Sec. 1, eff. June 18, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 704 (H.B. 2806), Sec. 1, eff.

September 1, 2009.

Sec. 143.073. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE. (a) A municipality shall provide to a fire fighter or police officer a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the leave shall continue for at least one year.

(b) At the end of the one-year period, the municipality's governing body may extend the line of duty illness or injury leave at full or reduced pay. If the fire fighter's or police officer's leave is not extended or the person's salary is reduced below 60 percent of the person's regular monthly salary, and the person is a member of a pension fund, the person may retire on pension until able to return to duty.

(c) If pension benefits are not available to a fire fighter or police officer who is temporarily disabled by a line of duty injury or illness and if the year at full pay and any extensions granted by the governing body have expired, the fire fighter or police officer may use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

(d) If a fire fighter or police officer is temporarily disabled by an injury or illness that is not related to the person's line of duty, the person may:

(1) use all sick leave, vacation time, and other accumulated time before the person is placed on temporary leave; or

(2) have another fire fighter or police officer volunteer to do the person's work while the person is temporarily disabled by the injury or illness.

(e) After recovery from a temporary disability, a fire fighter or police officer shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another fire fighter or police officer may voluntarily do the work of an injured fire fighter or police officer until the person returns to duty.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 683, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 399 (H.B. 1790), Sec. 1, eff. September 1, 2015.

Sec. 143.074. REAPPOINTMENT AFTER RECOVERY FROM DISABILITY. With the commission's approval and if otherwise qualified, a fire fighter or police officer who has been certified by a physician selected by a pension fund as having recovered from a disability for which the person has been receiving a monthly disability pension is eligible for reappointment to the classified position that the person held on the date the person qualified for the monthly disability pension.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 683, Sec. 2, eff. Sept. 1, 2001.

Sec. 143.075. MILITARY LEAVE TIME ACCOUNTS. (a) A municipality shall maintain military leave time accounts for the fire and police departments and must maintain a separate military leave time account for each department.

(b) A military leave time account shall benefit a fire fighter or police officer who:

(1) is a member of the Texas National Guard or the armed forces reserves of the United States;

(2) was called to active federal military duty while serving as a fire fighter or police officer for the municipality; and

(3) has served on active duty for a period of 3 continuous months or longer.

(c) A fire fighter or police officer may donate any amount of accumulated vacation, holiday, sick, or compensatory leave time to the military leave time account in that fire fighter's or police officer's department to help provide salary continuation for fire fighters or police officers who qualify as eligible beneficiaries of the account under Subsection (b). A fire fighter or police officer who wishes to donate time to an account under this section must authorize the donation in writing on a form provided by the fire or police department and approved by the municipality.

(d) A municipality shall equally distribute the leave time donated to a military leave time account among all fire fighters or

police officers who are eligible beneficiaries of that account. The municipality shall credit and debit the applicable military leave time account on an hourly basis regardless of the cash value of the time donated or used.

Added by Acts 2003, 78th Leg., ch. 287, Sec. 2, eff. June 18, 2003. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1041 (H.B. 2924), Sec. 1, eff. June 14, 2013.

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Sec. 143.081. DETERMINATION OF PHYSICAL AND MENTAL FITNESS. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If a question arises as to whether a fire fighter or police officer is sufficiently physically or mentally fit to continue the person's duties, the fire fighter or police officer shall submit to the commission a report from the person's personal physician, psychiatrist, or psychologist, as appropriate.

(c) If the commission, the department head, or the fire fighter or police officer questions the report, the commission shall appoint a physician, psychiatrist, or psychologist, as appropriate, to examine the fire fighter or police officer and to submit a report to the commission, the department head, and the person.

(d) If the report of the appointed physician, psychiatrist, or psychologist, as appropriate, disagrees with the report of the fire fighter's or police officer's personal physician, psychiatrist, or psychologist, as appropriate, the commission shall appoint a three-member board composed of a physician, a psychiatrist, and a psychologist, or any combination, as appropriate, to examine the fire fighter or police officer. The board's findings as to the person's fitness for duty shall determine the issue.

(e) The fire fighter or police officer shall pay the cost of the services of the person's personal physician, psychiatrist, or psychologist, as appropriate. The municipality shall pay all other costs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(h), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 890, Sec. 1, eff. Aug. 28, 1989.

Sec. 143.082. EFFICIENCY REPORTS. (a) The commission may develop proper procedures and rules for semiannual efficiency reports and grades for each fire fighter or police officer.

(b) If the commission collects efficiency reports on fire fighters or police officers, the commission shall provide each person with a copy of that person's report.

(c) Within 10 calendar days after the date a fire fighter or police officer receives the copy of the person's efficiency report, the person may make a statement in writing concerning the efficiency report. The statement shall be placed in the person's personnel file with the efficiency report.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(i), eff. Aug. 28, 1989.

Sec. 143.083. EMERGENCY APPOINTMENT OF TEMPORARY FIRE FIGHTERS. (a) If a municipality is unable to recruit qualified fire fighters because of the maximum age limit prescribed by Section 143.023 and the municipality's governing body finds that this inability creates an emergency, the commission shall recommend to the governing body additional rules governing the temporary employment of persons who are 36 years of age or older.

(b) A person employed under this section:

(1) is designated as a temporary employee;

(2) is not eligible for pension benefits;

(3) is not eligible for appointment or promotion if a permanent applicant or employee is available;

(4) is not eligible to become a full-fledged civil service employee; and

(5) must be dismissed before a permanent civil service employee may be dismissed under Section 143.085.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 3, eff. September 1, 2023.

Sec. 143.084. CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIRE FIGHTERS. (a) Each fire fighter who, since December 31, 1969, has been continuously employed as a temporary employee under the provision codified as Section 143.083 has the full status of a civil service employee with all the rights and privileges granted by Section 143.005.

(b) A fire fighter covered by Subsection (a) is eligible to participate in earned pension benefits. The person may buy back service credits in the pension fund in which the permanent fire fighters in the department have participated since that person's employment. The credits may be bought at a rate determined by the actuary of the affected pension fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 4, eff. September 1, 2023.

Sec. 143.085. FORCE REDUCTION AND REINSTATEMENT LIST. (a) If a municipality's governing body adopts an ordinance that vacates or abolishes a fire or police department position, the fire fighter or police officer who holds that position shall be demoted to the position immediately below the vacated or abolished position. If one or more positions of equal rank are vacated or abolished, the fire fighters or police officers who have the least seniority in a position shall be demoted to the position immediately below the vacated or abolished position. If a fire fighter or police officer is demoted under this subsection without charges being filed against the person for violation of civil service rules, the fire fighter or police officer shall be placed on a position reinstatement list in order of seniority. If the vacated or abolished position is filled or re-created within one year after the date it was vacated or abolished, the position must be filled from the reinstatement list. Appointments from the reinstatement list shall be made in order of seniority. A person who is not on the list may not be appointed to the position during the one-year period until the reinstatement list is exhausted.

(b) If a position in the lowest classification is abolished or vacated and a fire fighter or police officer must be dismissed from the department, the fire fighter or police officer with the least seniority shall be dismissed. If a fire fighter or police officer is dismissed under this subsection without charges being filed against the person for violation of civil service rules, the fire fighter or police officer shall be placed on a reinstatement list in order of seniority. Appointments from the reinstatement list shall be made in order of seniority. Until the reinstatement list is exhausted, a person may not be appointed from an eligibility list. When a person has been on a reinstatement list for three years, the person shall be dropped from the list but shall be restored to the list at the request of the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.086. POLITICAL ACTIVITIES. (a) While in uniform or on active duty, a fire fighter or police officer may not take an active part in another person's political campaign for an elective position of the municipality.

(b) For the purposes of this section, a person takes an active part in a political campaign if the person:

(1) makes a political speech;

(2) distributes a card or other political literature;

(3) writes a letter;

(4) signs a petition;

(5) actively and openly solicits votes; or

(6) makes public derogatory remarks about a candidate for an elective position of the municipality.

(c) A fire fighter or police officer may not be required to contribute to a political fund or to render a political service to a person or party. A fire fighter or police officer may not be removed, reduced in classification or salary, or otherwise prejudiced for refusing to contribute to a political fund or to render a political service.

(d) A municipal official who attempts to violate Subsection (c) violates this chapter.

(e) Except as expressly provided by this section, the commission or the municipality's governing body may not restrict a

fire fighter's or police officer's right to engage in a political activity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.087. STRIKE PROHIBITION. (a) A fire fighter or police officer may not engage in a strike against the governmental agency that employs the fire fighter or police officer.

(b) In addition to the penalty prescribed by Section 143.016, if a fire fighter or police officer is convicted of an offense for violating this section, the person shall be automatically released and discharged from the fire or police department. After the person is discharged from the department, the person may not receive any pay or compensation from public funds used to support the fire or police department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.088. UNLAWFUL RESIGNATION OR RETIREMENT. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) A person commits an offense if the person accepts money or anything of value from another person in return for retiring or resigning from the person's civil service position.

(c) A person commits an offense if the person gives money or anything of value to another person in return for the other person's retirement or resignation from the person's civil service position.

(d) An offense under this section is a Class A misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.089. PERSONNEL FILE. (a) The director or the director's designee shall maintain a personnel file on each fire fighter and police officer. The personnel file must contain any letter, memorandum, or document relating to:

(1) a commendation, congratulation, or honor bestowed on the fire fighter or police officer by a member of the public or by the employing department for an action, duty, or activity that

relates to the person's official duties;

(2) any misconduct by the fire fighter or police officer if the letter, memorandum, or document is from the employing department and if the misconduct resulted in disciplinary action by the employing department in accordance with this chapter; and

(3) the periodic evaluation of the fire fighter or police officer by a supervisor.

(b) A letter, memorandum, or document relating to alleged misconduct by the fire fighter or police officer may not be placed in the person's personnel file if the employing department determines that there is insufficient evidence to sustain the charge of misconduct.

(c) A letter, memorandum, or document relating to disciplinary action taken against the fire fighter or police officer or to alleged misconduct by the fire fighter or police officer that is placed in the person's personnel file as provided by Subsection (a)(2) shall be removed from the employee's file if the commission finds that:

(1) the disciplinary action was taken without just cause; or

(2) the charge of misconduct was not supported by sufficient evidence.

(d) If a negative letter, memorandum, document, or other notation of negative impact is included in a fire fighter's or police officer's personnel file, the director or the director's designee shall, within 30 days after the date of the inclusion, notify the affected fire fighter or police officer. The fire fighter or police officer may, on or before the 15th day after the date of receipt of the notification, file a written response to the negative letter, memorandum, document, or other notation.

(e) The fire fighter or police officer is entitled, on request, to a copy of any letter, memorandum, or document placed in the person's personnel file. The municipality may charge the fire fighter or police officer a reasonable fee not to exceed actual cost for any copies provided under this subsection.

(f) The director or the director's designee may not release any information contained in a fire fighter's or police officer's personnel file without first obtaining the person's written permission, unless the release of the information is required by law.

(g) A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for

the department's use. Except as provided by Subsection (h), the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

(h) As provided by Section 1701.451, Occupations Code, a law enforcement agency hiring a police officer is entitled to view the contents of the officer's personnel file maintained under Subsection (g).

Added by Acts 1989, 71st Leg., ch. 1, Sec. 25(c), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 84, eff. Sept. 1, 1989.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 834 (S.B. 24), Sec. 1, eff. September 1, 2021.

Sec. 143.090. RELEASE OF PHOTOGRAPHS OF POLICE OFFICERS. A department, commission, or municipality may not release a photograph that depicts a police officer unless:

(1) the officer has been charged with an offense by indictment or by information;

(2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;

(3) the photograph is introduced as evidence in a judicial proceeding; or

(4) the officer gives written consent to the release of the photograph.

Added by Acts 2011, 82nd Leg., R.S., Ch. 300 (H.B. 2006), Sec. 1, eff. September 1, 2011.

Sec. 143.091. ELIGIBILITY FOR CIVILIAN OVERSIGHT BOARD. A person is not eligible to serve on a civilian oversight board if the person has been convicted of or placed on deferred adjudication community supervision for a felony offense.

Added by Acts 2025, 89th Leg., R.S., Ch. 867 (S.B. 1957), Sec. 2, eff. June 20, 2025.

SUBCHAPTER G. PROVISIONS APPLICABLE TO MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE AND CERTAIN OTHER MUNICIPALITIES

Sec. 143.101. SUBCHAPTER APPLICABLE PRIMARILY TO MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE; APPLICATION OF OTHER SUBCHAPTERS. (a) Except as otherwise provided, this subchapter applies only to a municipality with a population of 1.5 million or more.

(b) Except as otherwise provided, the provisions of Subchapters A-F apply to each municipality covered under this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.1014. NOTICE REQUIREMENT FOR CERTAIN MEETINGS OR HEARINGS. (a) The department shall provide to a fire fighter or police officer notice of the time and location of a meeting or hearing not later than the 48th hour before the hour on which the meeting or hearing is held if the meeting or hearing is:

(1) related to an internal departmental or other municipal investigation of the fire fighter or police officer at which the fire fighter or police officer is required or entitled to be present, including an interrogation;

(2) related to a grievance filed by the fire fighter or police officer under Sections 143.127 through 143.134; or

(3) an opportunity to respond to charges against the fire fighter or police officer before the department terminates the fire fighter's or police officer's employment.

(b) A fire fighter or police officer may waive the notice prescribed by this section.

Added by Acts 1989, 71st Leg., ch. 140, Sec. 1, eff. May 25, 1989. Renumbered from 143.1016 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(19), eff. Sept. 6, 1990.

Sec. 143.1015. COMMISSION APPEAL PROCEDURE; SUBPOENA REQUEST. (a) An appeal by a fire fighter or police officer to the commission

from an action for which an appeal or review is provided by this chapter is sufficient if the fire fighter or police officer files it with the commission within 15 days after the date the action occurred. In an appeal provided by this chapter the commission shall render a decision in writing within 60 days after it received the notice of appeal, unless the provisions of Section 143.1017(d) have been invoked by the fire fighter or police officer. If the commission does not render a decision in writing within 60 days after the date it receives notice of the appeal, the commission shall sustain the fire fighter's or police officer's appeal.

(b) On or before the 15th day before the date the appeal hearing will be held, the commission shall notify the fire fighter or police officer of the date on which the commission will hold the hearing.

(c) The commission may not restrict the fire fighter's or police officer's ability to subpoena relevant witnesses.

(d) Within three days after the date the fire fighter or police officer receives the commission's written refusal to subpoena materials, the fire fighter or police officer may request in writing that the commission hold a hearing relating to the reasons for that person's subpoena request.

(e) The hearing relating to the reasons for the fire fighter's or police officer's subpoena request shall be held on the date set for the original appeal hearing. If the commission overrules the subpoena request at the hearing:

(1) the commission may hear the fire fighter's or police officer's appeal on that date; or

(2) if the commission finds that justice is served by a continuance, the commission shall:

(A) reschedule the hearing to the commission's next regularly scheduled meeting; and

(B) give the fire fighter or police officer 15 days notice of that date.

(f) If the commission sustains the fire fighter's or police officer's subpoena request at the hearing, the commission shall:

(1) reschedule the appeal hearing date to the commission's next regularly scheduled meeting; and

(2) give the fire fighter or police officer 15 days notice of that date.

(g) If the commission reschedules a hearing under this section

in an appeal relating to an indefinite suspension, the commission shall render a decision in writing within 60 days after the date it receives notice of appeal.

(h) If the commission does not hold a hearing on the fire fighter's or police officer's subpoena request as prescribed by this section, the commission shall sustain the fire fighter's or police officer's appeal.

(i) A municipal employee who is subpoenaed to appear in any appeal of a disciplinary decision is entitled to applicable pay for the time the employee is required to be present at the hearing. Witnesses whose testimony relates primarily to the character or reputation of the employee shall be limited by the hearing examiner or commission if the testimony is repetitious or unduly prolongs the hearing. If the hearing examiner or commission limits the number of character or reputation witnesses, additional witness statements may be presented by affidavit. The character witnesses are not entitled to applicable pay for the time they are required to be present at the hearing.

(j) In any hearing relating to the appeal or review of an action of the department head that affects a fire fighter or police officer, the department head shall have the burden of proof. The department head is required to prove the allegations contained in the written statement, and the department head is restricted to the written statement and charges, which may not be amended.

(k) In an appeal to a hearing examiner, the director may, within five working days after the date the hearing examiner is chosen, send to the hearing examiner the following:

(1) the name of the fire fighter or police officer who is appealing;

(2) the written reasons filed by the department head with the commission in the case of a promotional passover or a recommended demotion;

(3) the specific provisions of the rules alleged to have been violated in the case of a suspension; and

(4) the date and place of the alleged civil service violation.

The director may not send the hearing examiner the department head's original written statement. The department head shall submit the written statement and charges to the hearing examiner at the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 25(d), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 3, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 906, Sec. 1, eff. Aug. 28, 1989.

Sec. 143.1016. HEARING EXAMINERS. (a) In addition to the other notice requirements prescribed by this chapter, the letter of disciplinary action issued to a fire fighter or police officer must state that in an appeal of an indefinite suspension, a suspension, a promotional pass over, or a recommended demotion, the appealing fire fighter or police officer may elect to appeal to an independent third party hearing examiner instead of to the commission. The letter must also state that if the fire fighter or police officer elects to appeal to a hearing examiner, the person waives all rights to appeal to a district court except as provided by Subsection (j).

(b) To exercise the choice of appealing to a hearing examiner, the appealing fire fighter or police officer must submit to the director a written request as part of the original notice of appeal required under this chapter stating the person's decision to appeal to an independent third party hearing examiner.

(c) The hearing examiner's decision is final and binding on all parties. If the fire fighter or police officer decides to appeal to an independent third party hearing examiner, the person automatically waives all rights to appeal to a district court except as provided by Subsection (j).

(d) If the appealing fire fighter or police officer chooses to appeal to a hearing examiner, the fire fighter or police officer and the department head or their designees shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed and no motion to consolidate is filed under Subsection (k) of this section, the director shall on the next work day following notice that the parties have failed to agree on a selection of a hearing examiner request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service or their successors in function. The fire fighter or police officer and the department head or their designees may agree on one of the seven neutral arbitrators on the list. If they do not agree within 25 days after the date the appeal was filed, each party or the party's

designee shall on the 25th day after the appeal was filed alternate striking a name from the list and the name remaining is the hearing examiner. In the event that the 25th day falls on a Saturday, Sunday, or a legal holiday, then the parties shall strike the list the next work day. The parties or their designees shall agree on a date for the hearing that is within the time period prescribed by Subsection (e). In the event that the director does not request the list of seven qualified neutral arbitrators within the time prescribed by this subsection or the department head or his designee fails to strike the list within the time prescribed by this subsection, the fire fighter or police officer or his designee shall select the arbitrator from the list provided. In the event that the fire fighter or police officer or his designee fails to strike the list within the time prescribed by this subsection, the department head or his designee shall select the arbitrator from the list provided.

(e) The appeal hearing must begin within 60 days after the date the appeal is filed and shall begin as soon as the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing within 45 calendar days after the date of selection, the fire fighter or police officer may, within two days after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed by Subsection (d). If the appeal hearing is not begun within 60 days after the date the appeal is filed, the indefinite suspension, suspension, promotional pass over, or recommended demotion is upheld and the appeal is withdrawn if the fire fighter or police officer is not ready to proceed, and the appeal is sustained if the department head is not ready to proceed. In computing the 60-day period, a period of delay not to exceed 30 calendar days because of a continuance granted at the request of the department head or his representative or the fire fighter or police officer or his representative on good cause being shown, or because of the unavoidable unavailability of the hearing examiner on the date of the hearing, or because of the pendency of a motion to consolidate with another hearing as provided in Subsection (k) of this section is excluded. In no event may a hearing examiner grant a continuance beyond 30 days in an indefinite suspension. A hearing examiner may grant a continuance beyond the 30-day period upon good cause being shown in a disciplinary suspension unless the fire fighter or police officer has another disciplinary action pending.

(f) In each hearing conducted under this section, the hearing examiner has the same duties and powers as the commission, including the right to issue subpoenas.

(g) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall render a decision on the appeal within 10 days after the date the hearing closed.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall make a reasonable effort to render a decision on the appeal within 30 days after the date the hearing ends or the briefs are filed. The hearing examiner's inability to meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action, or the hearing examiner's final decision.

(i) The hearing examiner's fees and expenses are shared equally by the appealing fire fighter or police officer and by the department. The costs of a witness are paid by the party who calls the witness.

(j) A district court may hear an appeal of a hearing examiner's award only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. If the basis for the appeal of the hearing examiner's award is based on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction, the petition must be filed in district court within 10 days of the hearing examiner's decision. An appeal must be brought in the district court having jurisdiction in the municipality in which the fire or police department is located. In the event the municipality is located in more than one county then the suit must be brought in the county having the majority of the population of the municipality.

(k) In an appeal of an indefinite suspension, a suspension, a promotional pass over, or a recommended demotion, each appealing fire fighter or police officer or the appealing fire fighter's or police officer's representative shall be entitled to the selection of a hearing examiner pursuant to Subsection (d) of this section to hear the case. The fire fighter, police officer, department head, or a representative of any of those may, within 10 days of the date they received notice of the appeal, file a motion with a copy to the

opposing side to consolidate the case with that of one or more other fire fighters or police officers where the charges arise out of the same incident. The motion to consolidate may be agreed to in writing and filed with the director. If a motion to consolidate the cases is filed and not agreed to, a hearing examiner shall be chosen pursuant to the provisions of Subsection (d) of this section to hear the motion. The decision of the hearing examiner shall be final and binding as to the issue of consolidation. The hearing examiner chosen to hear the motion to consolidate shall not hear the case, and the provisions of Subsection (d) of this section shall be used to choose the hearing examiner with the day the decision is rendered being the equivalent of the date the appeal was filed.

Added by Acts 1989, 71st Leg., ch. 854, Sec. 4, eff. June 14, 1989.

Sec. 143.1017. PROCEDURES AFTER FELONY INDICTMENT OR OTHER CRIME OF MORAL TURPITUDE. (a) If a fire fighter or police officer is indicted for a felony or officially charged with the commission of any other crime involving moral turpitude, the department head may temporarily suspend the person with or without pay for a period not to exceed 30 days after the date the fire fighter or police officer gives notice of final disposition of the specified felony indictment or any other crime involving moral turpitude.

(b) The department head shall notify the suspended fire fighter or police officer in writing that the person is being temporarily suspended for a specific period with or without pay and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.

(c) If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the department head may, within 60 days after the date of final disposition of the indictment or complaint, bring a charge against the fire fighter or police officer for a violation of civil service rules.

(d) A fire fighter or police officer indicted for a felony or officially charged with the commission of any other crime involving moral turpitude who has also been charged by the department head with civil service violations directly related to the indictment or

complaint may delay the civil service hearing for not more than 30 days after the date of the final disposition of the indictment or complaint.

(e) If the department head temporarily suspends a fire fighter or police officer under this section and the fire fighter or police officer is not found guilty of the indictment or complaint in a court of competent jurisdiction, the fire fighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.

(f) Acquittal or dismissal of an indictment or a complaint does not mean that a fire fighter or police officer has not violated civil service rules and does not negate the charges that may have been or may be brought against the fire fighter or police officer by the department head.

(g) Final conviction of a felony shall be the basis for dismissal without notice or further proceedings under this Act, and conviction of any other crime involving moral turpitude may be cause for disciplinary action or indefinite suspension.

(h) The department head may order an indefinite suspension based on an act classified as a felony or any other crime involving moral turpitude after the 180-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the person's conduct. If the department head intends to order an indefinite suspension after the 180-day period, the department head must file with the attorney general a statement describing the criminal investigation and its objectives within 180 days after the date the act complained of occurred.

Added by Acts 1989, 71st Leg., ch. 854, Sec. 2, eff. June 14, 1989.

Sec. 143.1018. EX PARTE COMMUNICATIONS. (a) While any matter subject to a hearing under this chapter is pending, a person may not, except in giving sworn testimony at the hearing or as otherwise provided by law, communicate with the commission, a hearing examiner, or a grievance examiner regarding the facts of the matter under consideration unless the other party or their representative is present. Notwithstanding the provisions of this subsection, it shall

not be a violation for either party to file written briefs or written motions in the case if copies were served on the opposing party.

(b) If the commission, hearing examiner, grievance examiner, or a court of competent jurisdiction determines that a person has violated Subsection (a) on behalf of and with the knowledge of the fire fighter or police officer who filed the appeal, request for a review, or grievance, a ruling shall be entered that dismisses the appeal, review, or grievance. If the commission, hearing examiner, grievance examiner, or a court of competent jurisdiction determines that a person violated Subsection (a) on behalf of or in favor of the department head or the department head's representative or on behalf of and with the knowledge of a person against whom a grievance was filed, a ruling shall be entered that upholds the position of the fire fighter or police officer that filed the appeal, request for a review, or grievance.

(c) While any matter subject to a hearing under the grievance procedure of Section 143.130 is pending, the director shall only send the name of the parties to the grievance, the original grievance, the written responses to the grievance, and any documents filed in the case by either party if copies were served upon the opposing party.

Added by Acts 1989, 71st Leg., ch. 906, Sec. 2, eff. Aug. 28, 1989.

Sec. 143.102. APPOINTMENT OF ASSISTANT CHIEF. (a) The head of the fire or police department may appoint a person to a command staff position at the rank of assistant chief as prescribed by this section.

(b) The heads of the fire and police departments shall establish required qualifying criteria for persons appointed to command staff positions at the rank of assistant chief in their respective departments. The required qualifying criteria used to select an assistant chief of the fire department must include criteria relating to management experience, educational and training background, special experience, and a performance evaluation. The required qualifying criteria must be approved by a vote of two-thirds of the municipality's governing body present and voting. The head of the police or fire department may not make an appointment until the required qualifying criteria are established and approved as prescribed by this subsection.

(c) To be eligible for appointment to a position at the rank of assistant chief of a police department, a person must:

(1) be a member of the classified service;

(2) have served for at least five years in the department as a sworn police officer; and

(3) meet the additional qualifying criteria established and approved as prescribed by Subsection (b).

(d) To be eligible for appointment to a position at the rank of assistant chief of a fire department, a person must:

(1) be a member of the classified service;

(2) have served for at least five years in the department as a certified fire fighter; and

(3) meet the additional qualifying criteria established and approved as prescribed by Subsection (b).

(e) The department head may remove without cause a person appointed under this section. If a person is removed without cause, the person shall be restored to that person's highest rank earned by competitive examination.

(f) If a person appointed under this section is temporarily or indefinitely suspended for cause from the appointed position, the suspension is subject to the procedures for disciplinary action prescribed by this chapter. If a person is indefinitely suspended for cause, the person does not have a right to reinstatement to the highest rank earned by competitive examination except to the extent that the indefinite suspension is reversed or modified by order of the commission or a hearing examiner.

(g) A person occupying a position in the rank of assistant chief of the fire or police department on September 1, 1985, may not be removed except for cause in accordance with the procedures for disciplinary action or demotion prescribed by this chapter.

(h) A person occupying a position in the rank of assistant chief of a fire or police department may voluntarily demote himself to the highest rank the person earned by competitive examination.

(i) A person may remove himself from consideration for appointment under this section.

(j) A person appointed under this section may take any promotional examination for which the person would have been eligible under this chapter.

(k) A person appointed under this section is subject to confirmation by the municipality's governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 27(a), eff. Aug. 28, 1989.

Sec. 143.103. SPECIALIZED POLICE DIVISIONS. (a) A peace officer employed by a municipal department in which the peace officer performs duties in a specialized police division, including a person employed as a park police officer, airport police officer, or municipal marshal, is entitled to civil service status under this chapter. The governing body of the municipality employing a peace officer in a specialized police division shall classify the officer in accordance with Section 143.021 and the duties performed by the peace officer.

(b) Except for positions classified in the communication or technical class, the governing body of the municipality employing a peace officer in a specialized police division shall classify a position in the division in the same class as a police officer position that is not in a specialized police division. A member of a particular division is eligible for promotion or lateral crossover to a position outside that division. The head of the police department, assistant chiefs of police, and deputy chiefs of police, or their equivalent, regardless of name or title, may exercise the full sanctions, powers, and duties of their respective offices in the supervision, management, and control of the members of those classes and divisions, subject to the decisions of the department head regarding the chain of command in the department.

(c) In departments in which a collective bargaining agreement or a meet-and-confer agreement exists, Subsection (b) must be approved by the collective bargaining agent, meet-and-confer agent, or entity representing the sworn officers of the department. This subsection does not apply to the transfer of police officers.

(d) Each applicable provision of this chapter, including the provisions relating to eligibility lists, examinations, promotions, appointments, educational incentive pay, longevity or seniority pay, certification pay, assignment pay, salary, vacation leave, and disciplinary appeals, applies to a peace officer employed by the municipality in a specialized police division as provided by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1997, 75th Leg., ch. 1195, Sec. 1, eff. Sept. 1, 1997.

Sec. 143.104. EXAMINATION PROCEDURE. The commission shall adopt rules to standardize the procedures for entrance and promotional examinations. The rules must provide:

(1) that each applicant have adequate space in which to take the examination;

(2) that each applicant be provided with a desk;

(3) that the room in which the examination is held have a public address system; and

(4) the maximum number of times an applicant may leave the room during the examination and the procedure each applicant must follow when leaving or entering the room during the examination.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.1041. ENTRANCE EXAMINATION FOR BEGINNING PEACE OFFICER POSITION IN POLICE DEPARTMENT. (a) In this section, "police officer training academy" means a police officer training academy operated or sponsored by a municipality to which this section applies.

(b) The commission shall provide for open, competitive, and free entrance examinations to provide eligibility lists for beginning peace officer positions in the police department. The examinations are open to each person who:

(1) makes a proper application;

(2) has been admitted to or is enrolled in a police officer training academy as an academy trainee; and

(3) meets the requirements prescribed by this chapter.

(c) The entrance examination may be administered to examinees only after the examinees are admitted to a police officer training academy and before the examinees graduate from the academy.

(d) An eligibility list for a beginning peace officer position in the police department may be created only as a result of the examination. Except as provided by Subsection (f), the examination must be held in the presence of each examinee. The examination must be based on the examinee's general knowledge and aptitude and must inquire into the examinee's general education and mental ability. A person may not be appointed to the police department except as a

result of the examination.

(e) An examinee may not take an examination unless at least one other examinee taking the examination is present.

(f) An entrance examination for beginning peace officer positions in the police department must be held at one or more locations in the municipality in which the police department is located and may be held at additional locations outside the municipality. An examination held at multiple locations must be administered on the same day and at the same time at each location at which it is given. To create one eligibility list, each member of a police officer training academy class shall take the examination at the same time and each examinee who takes that examination shall:

(1) take the same examination; and

(2) be examined in the presence of other examinees.

(g) An additional five points shall be added to the examination grade of an examinee who:

(1) served in the United States armed forces;

(2) received an honorable discharge from that service; and

(3) made a passing grade on the examination.

(h) The grade to be placed on the eligibility list for each examinee shall be computed by adding an examinee's points under Subsection (g), if any, to the examinee's grade on the written examination. Each examinee's grade on the written examination is based on a maximum grade of 100 percent and is determined entirely by the correctness of the examinee's answers to the questions. The minimum passing grade on the examination is 70 percent. An examinee must pass the examination to be placed on an eligibility list.

Added by Acts 2007, 80th Leg., R.S., Ch. 27 (S.B. 339), Sec. 2, eff. September 1, 2007.

Sec. 143.105. ELIGIBILITY FOR BEGINNING POSITION IN POLICE DEPARTMENT. In addition to meeting the eligibility requirements prescribed by Section 143.023, to be certified as eligible for a beginning position with a police department, a person must be at least 21 years of age at the end of the probationary period and have:

(1) served in the United States armed forces and received an honorable discharge;

(2) earned at least 60 hours' credit in any area of study

at an accredited college or university, of which not more than 12 hours' credit may be earned for training at the police officer training academy operated or sponsored by the municipality; or

(3) been employed full-time for at least five years as a peace officer licensed by:

(A) the Texas Commission on Law Enforcement; or

(B) an acceptable licensing entity in another state that has law enforcement officer licensing requirements substantially equivalent to those of Chapter 1701, Occupations Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 84 (S.B. 342), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 611 (H.B. 780), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.52, eff. May 18, 2013.

Sec. 143.1051. ELIGIBILITY FOR BEGINNING POSITION IN FIRE DEPARTMENT. In addition to meeting the eligibility requirements prescribed by Section 143.023, to be certified as eligible for a beginning position with a fire department a person must:

(1) have served in the United States Armed Forces and received an honorable discharge; or

(2) have earned at least 15 hours of credit in any area of study at an accredited college or university.

Added by Acts 1991, 72nd Leg., ch. 841, Sec. 1, eff. Sept. 1, 1991.

Sec. 143.1055. APPLICANT FOR BEGINNING POSITION IN POLICE DEPARTMENT WITH PREVIOUS EXPERIENCE. Notwithstanding any other requirement of this chapter, for any applicant for a beginning position in the police department who has previous experience as a police officer with another police department, the police department may:

(1) modify the police officer training academy requirements for the applicant; and

(2) allow the applicant to take the entrance examination

before completing the academy training.

Added by Acts 2005, 79th Leg., Ch. 629 (H.B. 2457), Sec. 1, eff. June 17, 2005.

Sec. 143.106. ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION. (a) Each promotional examination is open to each fire fighter who at any time has continuously held for at least two years a position in the classification that is immediately below, in salary, the classification for which the examination is to be held.

(b) If the department has adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each fire fighter who has continuously held for at least two years a position at the next lower pay grade, if it exists, in the class for which the examination is to be held.

(c) If there are not enough fire fighters in the next lower position with two years' service in that position to provide an adequate number of persons to take the examination, the commission may open the examination to persons in that position with less than two years' service. If there is still an insufficient number, the commission may open the examination to persons with at least two years' experience in the second lower position, in salary, to the position for which the examination is to be held.

(d) Repealed by Acts 1993, 73rd Leg., ch. 676, Sec. 4, eff. Sept. 1, 1993.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 676, Sec. 4, eff. Sept. 1, 1993.

Sec. 143.107. PROMOTIONAL EXAMINATION NOTICE. (a) Notwithstanding Subsection (b), Section 143.029, before the 90th day before the date a promotional examination in a fire department is held, the commission shall post a notice of the examination in plain view on a bulletin board located in the main lobby of the city hall and in the commission's office. The notice must show the position to be filled or for which the examination is to be held and the date, time, and place of the examination. The commission shall also furnish sufficient copies of the notice for posting in the stations

or subdepartments in which the position will be filled.

(b) Before the 30th day before the date a promotional examination is held, the municipality shall post a notice of the number of newly created positions. The notice must be posted in plain view on a bulletin board located in the main lobby of the city hall and in the commission's office. The municipality shall also distribute the notice to all stations and subdepartments.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 263, Sec. 1, eff. Aug. 26, 1991.

Sec. 143.108. PROMOTIONAL EXAMINATION GRADES; PROMOTIONAL APPOINTMENTS. (a) Each eligible promotional candidate from the fire or police department who receives a grade of at least 70 points on a promotional examination is considered to have passed that examination.

(b) If an eligibility list exists on the date a vacancy occurs, the vacancy shall be filled by permanent appointment from the eligibility list furnished by the commission within 60 days after the date the vacancy occurs. If an eligibility list does not exist, the vacancy shall be filled within 95 days after the date the vacancy occurs from an eligibility list that the commission shall provide within 90 days after the date the vacancy occurs.

(c) If a fire or police department fails to fill a vacancy by an appointment within the time required by Subsection (b), the fire fighter or police officer who is appointed to fill the vacancy is entitled to receive in a lump-sum payment the difference between the pay that the fire fighter or police officer received during the time that the position was unlawfully vacant and the pay that the fire fighter or police officer would have received if the fire fighter or police officer had been appointed to the position on the latest day provided for the appointment by Subsection (b). The fire fighter's or police officer's seniority rights in the new position also date to the latest day provided for the appointment by Subsection (b).

(d) If the municipality refuses to pay a fire fighter or to grant a fire fighter seniority rights as provided by Subsection (c), a fire fighter may bring an action to recover the pay and seniority rights in a court of competent jurisdiction. A fire fighter who prevails in a suit brought under this subsection is entitled to

recover three times the amount to which the fire fighter is entitled under Subsection (c), seniority rights, costs of court, and reasonable attorney fees.

(e) If the municipality refuses to pay a police officer or to grant a police officer seniority rights as provided by Subsection (c), the police officer may bring an action to recover the pay and seniority rights in a court of competent jurisdiction.

(f) Notwithstanding Subsection (h), Section 143.036, each promotional eligibility list in the fire department remains in existence for two years after the date on which the written examination is given, unless exhausted. At the expiration of the two-year period, the eligibility list expires and a new examination may be held.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(j), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 263, Sec. 2, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 870, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 8.01(18), eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 676, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 150, Sec. 1, eff. Sept. 1, 1997.

Sec. 143.109. CROSSOVER PROMOTIONS IN POLICE DEPARTMENT. (a) In this section:

(1) "Communications class" includes each person who performs the technical operation of police radio communications.

(2) "Technical class" includes each person who performs criminal laboratory analysis and interpretations or the technical aspects of criminal identification and photography.

(b) Each person employed by the police department who is a member of the technical or communications class is eligible for a promotion within that class.

(c) A member of the technical, communications, or uniformed and detective class is not eligible for promotion to a position outside that class, and lateral crossover by promotion is prohibited. A person may change classes only by qualifying for and entering the new class at the lowest entry level of that class.

(d) The department head, assistant chiefs, and deputy chiefs, or their equivalent, regardless of name or title, may exercise the

full sanctions, powers, and duties of their respective offices in the supervision, management, and control of the members of the technical, communications, and uniformed and detective classes.

(e) Each provision of this chapter relating to eligibility lists, examinations, appointments, and promotions applies to the appointment or promotion of members of the technical, communications, and uniformed and detective classes within the members' respective class.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.1095. TRANSFERS IN POSITION IN SAME CLASSIFICATION IN FIRE DEPARTMENT. (a) The head of the fire department may transfer a fire fighter from one position to another position in the same classification in the fire department if the transfer is:

(1) a promotion or demotion of the fire fighter;

(2) required to balance the work force;

(3) for disciplinary reasons;

(4) based on the seniority of the fire fighter;

(5) a result of a mutual agreement between the department head and the fire fighter; or

(6) for any other specified reason the department head considers necessary.

(b) If the department head transfers a fire fighter under this section, the department head shall designate in a written statement the basis for the transfer.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 28(a), eff. Aug. 28, 1989.

Sec. 143.110. SALARY. (a) Except as provided by Subsection (c) and Section 143.111, all fire fighters or police officers in the same classification are entitled to the same base salary.

(b) In addition to the base salary, each fire fighter or police officer is entitled to each of the following types of pay, if applicable:

(1) longevity pay;

(2) seniority pay;

(3) educational incentive pay as authorized by Section 143.112;

(4) assignment pay as authorized by Section 143.113; and

(5) shift differential pay as authorized by Section 143.047.

(c) In computing longevity pay and base pay under this section for a police officer who has completed the department's academy training requirements, the police department may include the number of years, not to exceed five, that the police officer served in another police department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1172, Sec. 2, eff. Aug. 28, 1989. Amended by:

Acts 2005, 79th Leg., Ch. 629 (H.B. 2457), Sec. 2, eff. June 17, 2005.

Sec. 143.111. TEMPORARY DUTIES IN HIGHER CLASSIFICATION. (a) The department head may designate a person from the next lower classification to temporarily fill a position in a higher classification. The designated person is entitled to the base salary of the higher position plus the person's own longevity pay during the time the person performs the duties. Any person who is required to act in a position of higher classification in an emergency situation shall be paid the base salary of the higher position plus the person's own longevity pay for the entire shift without respect to whether an emergency occurs on any particular shift of duty.

(b) The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by this chapter may not be construed as a promotion of the person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 12, eff. June 14, 1989.

Sec. 143.1115. DETERMINATION OF PHYSICAL AND MENTAL FITNESS. (a) This section provides the exclusive procedure for determining whether a fire fighter or police officer is sufficiently physically or mentally fit to continue the person's duties or assignment.

(b) On receiving a written order by the department head, a fire fighter or police officer shall submit to the commission a report from the person's personal physician, psychiatrist, or psychologist,

as appropriate.

(c) If the commission, the department head, or the fire fighter or police officer questions the report, the commission shall appoint a physician, psychiatrist, or psychologist, as appropriate, to examine the fire fighter or police officer and to submit a report to the commission, the department head, and the person.

(d) If the report of the appointed physician, psychiatrist, or psychologist, as appropriate, disagrees with the report of the fire fighter's or police officer's personal physician, psychiatrist, or psychologist, as appropriate, the commission shall appoint an independent three-member board composed of a physician, a psychiatrist, and a psychologist or any combination, as appropriate, to examine the fire fighter or police officer. The board shall submit to the commission a written report of its finding regarding whether the fire fighter or police officer is sufficiently physically or mentally fit to continue the person's duties or assignment. The commission, at its next regularly scheduled meeting after the date it receives the report of the board, shall determine whether the fire fighter or police officer is sufficiently physically or mentally fit to continue the person's duties or assignment. The commission shall base its determination exclusively on the report of the board.

(e) The fire fighter or police officer shall pay the cost of the services of the person's personal physician, psychiatrist, or psychologist, as appropriate. The municipality shall pay all other costs.

(f) The commission may not appoint a person to serve on a board appointed under Subsection (d) if the person receives any compensation from the municipality, other than compensation for the person's services as a board member.

Added by Acts 1989, 71st Leg., ch. 890, Sec. 2, eff. Aug. 28, 1989.

Sec. 143.112. EDUCATIONAL INCENTIVE PAY. (a) In this section:

(1) "Accredited college or university" means a college or university that is:

(A) accredited by a nationally recognized accrediting agency and by the state board of education in the state in which the college or university is located; and

(B) approved or certified by:

(i) the Texas Commission on Law Enforcement as teaching the core curriculum or its equivalent in law enforcement; or

(ii) the Texas Commission on Fire Protection.

(2) "Core curriculum in law enforcement" means those courses in law enforcement education approved by the Coordinating Board, Texas College and University System, and the Texas Commission on Law Enforcement.

(b) The governing body of a municipality may authorize educational incentive pay for:

(1) each fire fighter within each classification who has successfully completed courses at an accredited college or university that are applicable toward a degree in fire science; or

(2) each police officer within each classification who has successfully completed courses at an accredited college or university that are applicable toward a degree in law enforcement--police science and include the core curriculum in law enforcement.

(c) The educational incentive pay is in addition to the regular pay received by a fire fighter or police officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.53, eff. May 18, 2013.

Sec. 143.113. ASSIGNMENT PAY. (a) In this section:

(1) "Bilingual personnel" means a member of the fire or police department who in the performance of the member's duties is capable of effectively translating orally a language other than English into English, and when necessary, effectively translating the language into written English.

(2) "Emergency ambulance attendant" means a member of the fire department who provides emergency medical care and emergency transportation for members of the public.

(3) "Field training officer" means a member of the fire department who is assigned to and performs the duties and responsibilities of the field training officers program.

(4) "Hazardous materials response team personnel" means a member of the fire department who is assigned to a hazardous materials response team and stabilizes or participates in the

stabilization of hazardous materials in an emergency.

(b) The municipality's governing body may authorize assignment pay for emergency ambulance attendants, field training officers, and hazardous materials response team personnel. The municipality's governing body may authorize assignment pay for fire fighters or police officers who perform specialized functions in their respective departments, including but not limited to career patrol officers. The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire department. The head of the fire department or police department is not eligible for the assignment pay authorized by this subsection.

(c) The municipality's governing body may authorize assignment pay for bilingual personnel performing specialized functions as interpreters or translators in their respective departments. The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire or police department. If the ordinance applies equally to each person who meets the criteria established by the ordinance, the ordinance may provide for payment to each fire fighter or police officer who meets testing or other certification criteria for an assignment, or the ordinance may set criteria that will determine the foreign languages in which a person must be fluent or other criteria for eligibility. The ordinance may provide for different rates of pay according to a person's capability and may allow more pay to those persons who are capable of translating orally and into written English. The heads of the fire and police departments are not eligible for the assignment pay authorized by this subsection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 5, eff. June 14, 1989.

Sec. 143.114. ASSIGNMENT PAY IN MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE. (a) In this section:

(1) "Bomb squad personnel" means a member of the police department who is assigned to the bomb squad and participates in the detection, handling, or disarming of explosive devices or materials.

(2) "Helicopter personnel" means a member of the police department who pilots a helicopter or rides as an observer in a

helicopter.

(3) "Special weapons and tactics personnel" means a member of the police department who is assigned to and performs the duties and responsibilities of the special weapons and tactics squad.

(4) "Motorcycle personnel" means a member of the police department who is assigned to and performs the duties of the motorcycle patrol detail.

(5) "Dive team personnel" means a member of the police department who is assigned to and performs underwater search and rescue work.

(b) In a municipality with a population of 1.5 million or more, the municipality's governing body may authorize assignment pay for:

(1) helicopter personnel;

(2) bomb squad personnel;

(3) special weapons and tactics personnel;

(4) motorcycle personnel;

(5) dive team personnel; and

(6) police officers who perform specialized functions in their respective departments, including but not limited to career patrol officers.

(c) The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the police department. The head of the police department is not eligible for the assignment pay authorized by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 35, Sec. 1, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 289, Sec. 1, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 669, Sec. 61, eff. Sept. 1, 2001.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 133, eff. September 1, 2023.

Sec. 143.115. PAYMENT OF ACCUMULATED VACATION LEAVE IN POPULOUS MUNICIPALITY. (a) This section applies only to a municipality with a population of 1.1 million or more.

(b) A fire fighter or police officer who leaves the classified service for any reason is entitled to receive in a lump-sum payment

the full amount of the person's salary for the period of the person's accumulated vacation leave up to a maximum of 60 working days.

(c) A fire fighter or police officer who leaves the classified service or dies as the result of a line of duty injury or illness or the beneficiaries of that fire fighter or police officer are entitled to the full amount of the fire fighter's or police officer's salary for the total accumulated vacation leave.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 62, 63, eff. Sept. 1, 2001.

Sec. 143.1155. ACCUMULATED VACATION AND HOLIDAY LEAVE. A fire fighter or police officer who leaves the classified service due to disability or the beneficiary of a fire fighter or police officer who dies is entitled to receive a lump-sum payment of the full amount of the fire fighter's or police officer's accumulated vacation and holiday leave.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 2, eff. Sept. 1, 1993.

Sec. 143.116. PAYMENT OF SICK LEAVE ON TERMINATION OF SERVICE. (a) A fire fighter or police officer who leaves the classified service for any reason or the beneficiaries of a fire fighter or police officer who dies as a result of a line of duty injury or illness are entitled to receive in a lump-sum payment the full amount of the fire fighter's or police officer's accumulated sick leave as provided by Subsections (b)-(e).

(b) A fire fighter or police officer hired before September 1, 1985, is entitled to have sick leave accumulated without limit. Sick leave accumulated before September 1, 1985, is valued at the amount of the fire fighter's or police officer's salary on August 31, 1985. Sick leave accumulated after September 1, 1985, is valued at the fire fighter's or police officer's average salary in the fiscal year in which the sick leave was accumulated.

(c) Each day or part of a day of sick leave used by a fire fighter or police officer is charged to that person's earliest acquired unused accumulated day of sick leave, in the same manner as is used in the "first in, first out" accounting principle.

(d) Each fire fighter or police officer hired before September

1, 1985, may select coverage under the municipal ordinance governing sick leave benefits and policy for the municipal employees who are not subject to this chapter. This option is a onetime only option that expires on December 31 of the year in which this section takes effect in that municipality.

(e) The sick leave of a fire fighter or police officer who becomes a member of the fire or police department on or after September 1, 1985, is covered by the municipal ordinance governing sick leave benefits and policy for the municipal employees who are not subject to this chapter.

(f) The municipality shall provide in its annual budget a sum reasonably calculated to provide funding for sick leave benefits for the fiscal year covered by that budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.117. DISCIPLINARY SUSPENSIONS. (a) The head of the fire or police department may suspend a fire fighter or police officer under the department head's supervision or jurisdiction for disciplinary reasons for a reasonable period not to exceed 15 days.

(b) The department head may suspend a fire fighter or police officer under this section only if the person violates a civil service rule. However, the department head may not suspend a fire fighter or police officer later than the 180th day after the date the department discovers or becomes aware of the civil service rule violation. If, during an investigation of an alleged civil service rule violation, it is alleged that the fire fighter or police officer under investigation committed another violation of a civil service rule connected with the first alleged violation, the 180-day period prescribed by this subsection does not begin again for purposes of a suspension of the fire fighter or police officer if the second violation in question does not involve untruthfulness or refusal to obey a valid order to make a statement, and therefore the department head may not suspend a fire fighter or police officer for the second violation later than the 180th day after the date the department discovers or becomes aware of the original violation.

(c) If the department head suspends a fire fighter or police officer, the department head shall, within 120 hours after the fire fighter or police officer is notified of the suspension, file a

written statement of action with the commission.

(d) The suspension is void and the fire fighter or police officer is entitled to the person's full pay if:

(1) the department head fails to file the statement during the required time; or

(2) the suspension is imposed later than the 180th day after the date the department discovers or becomes aware of the violation that resulted in the suspension.

(e) A fire fighter or police officer may appeal a disciplinary suspension as prescribed by Sections 143.010 and 143.1015.

(f) The provisions of Subsections (d) and (e) of Section 143.119 of this chapter apply to this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(e), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 409, Sec. 1, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 6, eff. June 14, 1989.

Sec. 143.118. APPEAL OF DISCIPLINARY SUSPENSION. (a) If a suspended fire fighter or police officer appeals a disciplinary suspension to the commission, the commission shall determine if just cause exists for the suspension.

(b) If the commission finds that the period of disciplinary suspension should be reduced, the commission may order a reduction in the period of suspension. The commission may reverse the department head's decision and instruct the department head to immediately restore the fire fighter or police officer to the person's prior position and to repay the person for any lost wages.

(c) If the department head refuses to obey a commission order, the provisions of Section 143.120 relating to the department head's refusal apply.

(d) The provisions of Subsections (b) and (e) of Section 143.120 of this chapter apply to this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 7, eff. June 14, 1989.

Sec. 143.119. INDEFINITE SUSPENSIONS. (a) The head of the fire or police department may indefinitely suspend a fire fighter or

police officer under the department head's supervision or jurisdiction for the violation of a civil service rule.

(b) If the department head suspends a fire fighter or police officer, the department head shall, within 120 hours after the hour of suspension, file a written statement with the commission giving the reasons for the suspension. The department head shall immediately deliver a copy of the statement in person to the suspended fire fighter or police officer.

(c) The copy of the written statement must inform the suspended fire fighter or police officer that if the person wants to appeal to the commission, the person must file a written appeal with the commission within 10 days after the date the person receives the copy of the statement.

(d) The written statement filed by the department head with the commission must point out the civil service rule alleged to have been violated by the suspended fire fighter or police officer and must describe the alleged acts of the person that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated.

(e) If the department head does not specifically point out in the written statement the act or acts of the fire fighter or police officer that allegedly violated civil service rules, the commission shall promptly reinstate the person.

(f) If the department head offers a suspension of 16 to 90 calendar days for violation of civil service rules, the fire fighter or police officer may agree in writing to voluntarily accept the suspension, with no right of appeal. The fire fighter or police officer must accept the offer within five working days after the date the offer is made. If the person refuses the offer and wants to appeal to the commission, the person must file a written appeal with the commission within 15 days after the date the person receives the copy of the written statement of suspension.

(g) In the original written statement and charges and in any hearing conducted under this chapter, the department head may not complain of an act that did not occur within the six-month period preceding the date on which the department head suspends the fire fighter or police officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.120. APPEAL OF INDEFINITE SUSPENSION. (a) Except as provided by Section 143.1015(g), if a suspended fire fighter or police officer appeals an indefinite suspension to the commission, the commission shall hold a hearing and render a decision in writing within 30 days after the date it receives notice of appeal.

(b) In a hearing conducted under this section, the department head is restricted to the department head's original written statement and charges, which may not be amended.

(c) In its decision, the commission shall state whether the suspended fire fighter or police officer is:

(1) permanently dismissed from the fire or police department;

(2) temporarily suspended from the department; or

(3) restored to the person's former position or status in the department's classified service.

(c-1) A temporary suspension of a firefighter under Subsection (c)(2) may not exceed 90 calendar days.

(d) If the suspended fire fighter or police officer is restored to the position or class of service from which the person was suspended, the department head shall immediately reinstate the person as ordered, and the person is entitled to full compensation at the rate of pay provided for the position or class of service from which the person was suspended for the actual time lost as a result of the suspension, as provided by Section 143.1215. If the department head fails to reinstate the fire fighter or police officer, the person is entitled to the person's salary as if the person had been regularly reinstated.

(e) The commission may suspend or dismiss a fire fighter or police officer only for violation of civil service rules and only after a finding by the commission of the truth of specific charges against the fire fighter or police officer.

(f) If the department head intentionally refuses, for at least 10 days, to obey an order to reinstate a fire fighter or police officer, the municipality's chief executive or governing body shall discharge the department head from employment with the municipality.

(g) If a department head intentionally refuses to obey a lawful commission order of reinstatement, the commission may punish the department head for contempt. The commission has the same authority

to punish for contempt as has a justice of the peace.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(f), 29(b), eff. Aug. 28, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1161 (H.B. 2516), Sec. 1, eff. June 17, 2011.

Sec. 143.121. APPEAL TO DISTRICT COURT. Each appeal of an indefinite suspension to a district court shall be advanced on the district court docket and given a preference setting over all other cases.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.1214. RECORDS RELATED TO DISCIPLINARY ACTIONS OR CHARGES OF MISCONDUCT. (a) The human resources director for the department promptly shall order that the records of a disciplinary action that was taken against a fire fighter or police officer be expunged from each file maintained on the fire fighter or police officer by the department if the disciplinary action was entirely overturned on appeal by the commission, an independent third-party hearing examiner, or a court of competent jurisdiction. Documents that must be expunged under this subsection include all documents that indicate disciplinary action was recommended or taken against the fire fighter or police officer, such as the recommendations of a disciplinary committee or a letter of suspension. This subsection does not apply if the fire fighter or police officer is charged with using excessive force that results in a death or injury and the charge is being investigated by a law enforcement or criminal justice agency other than the department. This subsection does not require that records of an internal affairs division or other similar internal investigative division be expunged.

(b) The department shall maintain an investigatory file that relates to a disciplinary action against a fire fighter or police officer that was overturned on appeal, or any document in the possession of the department that relates to a charge of misconduct against a fire fighter or police officer, regardless of whether the

charge is sustained, only in a file created by the department for the department's use. The department may only release information in those investigatory files or documents relating to a charge of misconduct:

(1) to another law enforcement agency or fire department;

(2) to the office of a district or United States attorney; or

(3) in accordance with Subsection (c).

(c) The department head or the department head's designee may forward a document that relates to disciplinary action against a fire fighter or police officer to the director or the director's designee for inclusion in the fire fighter's or police officer's personnel file maintained under Sections 143.089(a)-(f) only if:

(1) disciplinary action was actually taken against the fire fighter or police officer;

(2) the document shows the disciplinary action taken; and

(3) the document includes at least a brief summary of the facts on which the disciplinary action was based.

(d) The legal division of the municipality, or its designee, shall provide legal representation in any action related to the release of a file or part of a file.

(e) The requirements of this section are in addition to the requirements of Section 143.089. This section does not prevent a fire fighter or police officer from obtaining access to any personnel file maintained by the director or the department, other than a file maintained by an internal affairs division or other similar internal investigative division, on the fire fighter or police officer under Section 143.089.

Added by Acts 1993, 73rd Leg., ch. 220, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 748, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 300 (H.B. 2006), Sec. 2, eff. September 1, 2011.

Sec. 143.1215. REINSTATEMENT. (a) If the commission, a hearing examiner, or a district court orders that a fire fighter or police officer suspended without pay be reinstated, the municipality shall, before the end of the second full pay period after the date

the person is reinstated, repay to the person all wages lost as a result of the suspension.

(b) If the municipality does not fully repay all lost wages to the fire fighter or police officer as provided by this section, the municipality shall pay the person an amount equal to the lost wages plus accrued interest.

(c) Interest under Subsection (b) accrues beginning on the date of the fire fighter's or police officer's reinstatement at a rate equal to three percent plus the rate for court judgments under Chapter 304, Finance Code, that is in effect on the date of the person's reinstatement.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 29(c), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1396, Sec. 36, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.80, eff. Sept. 1, 1999.

Sec. 143.1216. CERTAIN NONDISCIPLINARY ACTIONS. (a) The department may use a supervisory intervention procedure or a policy and procedure inquiry to modify a police officer's behavior through:

(1) positive encouragement;

(2) counseling;

(3) job skills training;

(4) repeat task performances, classes, or exercises; or

(5) reeducation efforts, including a review of:

(A) general department orders;

(B) standard operating procedures; or

(C) lesson plans from a police officer training academy.

(b) A supervisory intervention procedure or a policy and procedure inquiry regarding a police officer is not considered a disciplinary action for any purpose.

(c) A police officer who is the subject of a supervisory intervention procedure or a policy and procedure inquiry may not file an appeal or grievance regarding the action taken by the department.

(d) The department may not include a record of a supervisory intervention procedure or a policy and procedure inquiry regarding a police officer in the police officer's personnel file maintained under Section 143.089 or in the department file maintained under Section 143.089(g).

(e) The department may include a record of a supervisory intervention procedure or a policy and procedure inquiry regarding a police officer in a file maintained by the division of the department in which the police officer is employed. The record in the division file may be considered in a periodic performance evaluation of the police officer's performance only if the supervisory intervention procedure or policy and procedure inquiry occurred during the performance period that is the subject of the performance evaluation.

(f) The department may maintain an electronic record of supervisory intervention procedures or policy and procedure inquiries that may be used only by the department for tracking and statistical purposes.

Added by Acts 2001, 77th Leg., ch. 748, Sec. 2, eff. Sept. 1, 2001.

Sec. 143.122. UNCOMPENSATED DUTY. (a) In this section, "uncompensated duty" means days of work without pay in a fire or police department and does not include a regular or normal work day.

(b) The head of the fire or police department may assign a fire fighter or police officer under the department head's jurisdiction or supervision to uncompensated duty. The department head may not impose uncompensated duty unless the fire fighter or police officer agrees to the duty.

(c) If the fire fighter or police officer agrees in writing to accept uncompensated duty, the department head shall give the person a written statement that specifies the date or dates on which the person will perform the duty. A fire fighter or police officer who agrees to accept the duty does not have a right to an administrative or judicial review.

(d) The uncompensated duty may be in place of or in combination with a period of disciplinary suspension without pay. If uncompensated duty is combined with a disciplinary suspension, the total number of uncompensated duty days may not exceed 15.

(e) A fire fighter or police officer may not earn or accrue a benefit arising from length of service or any wage or salary while the person is suspended or performing uncompensated duty.

(f) A disciplinary suspension does not constitute a break in a continuous position or in service in the department in determining eligibility for a promotional examination.

(g) Except as provided by this section, a fire fighter or police officer performing assigned uncompensated duty retains all rights and privileges of the person's position in the department and of the person's employment by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.123. INVESTIGATION OF FIRE FIGHTERS AND POLICE OFFICERS. (a) In this section:

(1) "Complainant" means a person claiming to be the victim of misconduct by a fire fighter or police officer.

(2) "Investigation" means an administrative investigation, conducted by the municipality, of alleged misconduct by a fire fighter or police officer that could result in punitive action against that person.

(3) "Investigator" means an agent or employee of the municipality who is assigned to conduct an investigation.

(4) "Punitive action" means a disciplinary suspension, indefinite suspension, demotion in rank, reprimand, or any combination of those actions.

(5) "Normally assigned working hours" includes those hours during which a fire fighter or police officer is actually at work or at the person's assigned place of work, but does not include any time when the person is off duty on authorized leave, including sick leave.

(b) An investigator may interrogate a fire fighter or police officer who is the subject of an investigation only during the fire fighter's or police officer's normally assigned working hours unless:

(1) the seriousness of the investigation, as determined by the fire fighter's or police officer's department head or the department head's designee, requires interrogation at another time; and

(2) the fire fighter or police officer is compensated for the interrogation time on an overtime basis.

(c) The department head may not consider work time missed from regular duties by a fire fighter or police officer due to participation in the conduct of an investigation in determining whether to impose a punitive action or in determining the severity of a punitive action.

(d) An investigator may not interrogate a fire fighter or police officer who is the subject of an investigation or conduct any part of the investigation at that person's home without that person's permission.

(e) A person may not be assigned to conduct an investigation if the person is the complainant, the ultimate decisionmaker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct. A fire fighter or police officer who is the subject of an investigation has the right to inquire and, on inquiry, to be informed of the identities of each investigator participating in an interrogation of the fire fighter or police officer. Not later than the 30th day after the date that a complaint is received by an investigator, the investigator must inform the fire fighter in writing of the nature of the investigation and the name of each person who complained about the fire fighter, if known, concerning the matters under investigation unless:

(1) a criminal investigation has been initiated as a result of the complaint; or

(2) the disclosure of information concerning the name of the complainant or the matters under investigation would hinder a criminal investigation.

(f) Before an investigator may interrogate a fire fighter or police officer who is the subject of an investigation, the investigator must inform the fire fighter or police officer in writing of the nature of the investigation and the name of each person who complained about the fire fighter or police officer concerning the matters under investigation. An investigator may not conduct an interrogation of a fire fighter or police officer based on a complaint by a complainant who is not a peace officer unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. In an investigation authorized under this subsection, an investigator may interrogate a fire fighter or police officer about events or conduct reported by a witness who is not a complainant without disclosing the name of the witness. Not later than the 48th hour before the hour on which an investigator begins to interrogate a fire fighter or police officer regarding an allegation based on a complaint, affidavit, or statement, the investigator shall give the fire fighter or police officer a copy of the affidavit, complaint, or statement. An interrogation may be based on a complaint from an anonymous

complainant if the departmental employee receiving the anonymous complaint certifies in writing, under oath, that the complaint was anonymous. This subsection does not apply to an on-the-scene investigation that occurs immediately after an incident being investigated if the limitations of this subsection would unreasonably hinder the essential purpose of the investigation or interrogation. If the limitation would hinder the investigation or interrogation, the fire fighter or police officer under investigation must be furnished, as soon as practicable, a written statement of the nature of the investigation, the name of each complaining party, and the complaint, affidavit, or statement.

(g) An interrogation session of a fire fighter or police officer who is the subject of an investigation may not be unreasonably long. In determining reasonableness, the gravity and complexity of the investigation must be considered. The investigators shall allow reasonable interruptions to permit the fire fighter or police officer to attend to personal physical necessities.

(h) An investigator may not threaten a fire fighter or police officer who is the subject of an investigation with punitive action during an interrogation. However, an investigator may inform a fire fighter or police officer that failure to truthfully answer reasonable questions directly related to the investigation or to fully cooperate in the conduct of the investigation may result in punitive action.

(i) If prior notification of intent to record an interrogation is given to the other party, either the investigator or the fire fighter or police officer who is the subject of an interrogation may record the interrogation.

(j) If an investigation does not result in punitive action against a fire fighter or police officer but does result in a reprimand recorded in writing or an adverse finding or determination regarding that person, the reprimand, finding, or determination may not be placed in that person's personnel file unless the fire fighter or police officer is first given an opportunity to read and sign the document. If the fire fighter or police officer refuses to sign the reprimand, finding, or determination, it may be placed in the personnel file with a notation that the person refused to sign it. A fire fighter or police officer may respond in writing to a reprimand, finding, or determination that is placed in the person's personnel file under this subsection by submitting a written response to the

department head within 10 days after the date the fire fighter or police officer is asked to sign the document. The response shall be placed in the personnel file. A fire fighter or police officer who receives a punitive action and who elects not to appeal the action may file a written response as prescribed by this subsection within 10 days after the date the person is given written notice of the punitive action from the department head.

(k) If the department head or any investigator violates any of the provisions of this section while conducting an investigation, the municipality shall reverse any punitive action taken pursuant to the investigation including a reprimand, and any information obtained during the investigation shall be specifically excluded from introduction into evidence in any proceeding against the fire fighter or police officer.

(l) Deleted by Acts 1989, 71st Leg., ch. 1, Sec. 25(h), eff. Aug. 28, 1989.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(g), (h), 30(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 140, Sec. 2 to 4, eff. May 25, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 8, eff. June 14, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 678 (H.B. 1561), Sec. 1, eff. June 15, 2007.

Sec. 143.124. POLYGRAPH EXAMINATIONS. (a) A fire fighter employed by the municipality may not be required to submit to a polygraph examination as part of an internal investigation regarding the conduct of the fire fighter unless:

(1) the complainant submits to and passes a polygraph examination and, if applicable, the fire department has complied with Subsection (c); or

(2) the fire fighter is ordered to take an examination under Subsection (f).

(b) Subsection (a)(1) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(c) The fire department shall, on the written request of a fire fighter, provide to the fire fighter the complainant's polygraph examination results within 48 hours after the request.

(d) For the purposes of this section, a fire fighter passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the subject matter under investigation.

(e) The results of a polygraph examination that relate to the complaint under investigation are not admissible in a proceeding before the commission or a hearing examiner.

(f) The fire department head may order a fire fighter to submit to a polygraph examination if the fire department head considers the circumstances to be extraordinary and the fire department head believes that the integrity of a fire fighter or the fire department is in question.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 31(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1303, Sec. 2, eff. June 20, 1997.

Sec. 143.125. POLICE DEPARTMENT PROBATIONARY PERIOD AFTER REAPPOINTMENT IN POPULOUS MUNICIPALITY. (a) This section applies only to a municipality with a population of 1.5 million or more.

(b) A person who ends service with the police department for any reason and is later reappointed to the department must serve a probationary period of six months from the date of reappointment.

(c) The reappointed officer is not entitled to full civil service protection until the officer has served the full probationary period.

(d) In determining classification, pay status, and eligibility for promotion, the probationary period is counted as if the reappointed officer were not on probation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 64, 65, eff. Sept. 1, 2001.

Sec. 143.1251. REAPPOINTMENT AFTER RESIGNATION. The commission may adopt rules to allow a police officer who voluntarily resigns from the department to be reappointed to the department without taking another departmental entrance examination.

Added by Acts 1995, 74th Leg., ch. 64, Sec. 3, eff. Sept. 1, 1995.

Sec. 143.126. LEGISLATIVE LEAVE. (a) A fire fighter or police officer is entitled to legislative leave without pay to appear before or to petition a governmental body during a regular or special session of that body as prescribed by this section.

(b) To be eligible for legislative leave, a fire fighter or police officer must submit a written application to the municipality on or before the 30th day before the date the fire fighter or police officer intends to begin the legislative leave. The application must indicate the length of the requested leave and state that the fire fighter or police officer is willing to reimburse the municipality for any wages, pension, or other costs the municipality will incur as a result of the leave. The length of the requested leave may not exceed the length of the session.

(c) Within 30 days after the date the municipality receives the application, the municipality shall notify the fire fighter or police officer in writing of the actual amount of money required to offset the costs the municipality will incur. The municipality may require the fire fighter or police officer to post the money before granting the leave.

(d) The municipality shall grant legislative leave to a fire fighter or police officer who submits an application as prescribed by this section and who complies with any requirement relating to payment of costs unless an emergency exists or unless granting the leave will result in an insufficient number of employees to carry out the normal functions of the fire or police department.

(e) If the head of the fire or police department determines that granting a legislative leave will result in an insufficient number of employees to carry out the normal functions of the department, another fire fighter or police officer may volunteer to work in the applicant's place on an exchange of time basis as long as no overtime results. If a fire fighter or police officer volunteers to work in the applicant's place and no overtime will result, the department head shall allow the volunteer to work for the applicant. If the volunteer work will solve the problem of having an insufficient number of employees, the municipality shall grant the legislative leave.

(f) Legislative leave may not be construed as a break in service for any purpose, including the determination of seniority,

promotions, sick leave, vacations, or retirement.

(g) Legislative leave granted under this section to a fire fighter or police officer to attend a session of the Congress of the United States shall be granted for a period not to exceed 30 percent of the applicant's total annual working days during each year in which leave is requested.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 32(a), eff. Aug. 28, 1989.

Sec. 143.1261. LEGISLATIVE LEAVE ACCOUNT. (a) A fire fighter or police officer may donate not more than one hour for each month of accumulated vacation or compensatory time to an employee organization. The municipality shall establish and maintain a legislative leave time account for each employee organization.

(b) The fire fighter or police officer must authorize the donation in writing on a form provided by the employee organization and approved by the municipality. After receiving the signed authorization on an approved form, the municipality shall transfer donated time to the account monthly until the municipality receives the fire fighter's or police officer's written revocation of the authorization.

(c) Only a fire fighter or police officer who is a member of an employee organization may use for legislative leave purposes the time donated to that employee organization. A fire fighter or police officer may use for legislative leave purposes the time donated under this section in lieu of reimbursing the municipality under Section 143.126.

(d) A request to use for legislative leave purposes the time in an employee organization's time account must be in writing and submitted to the municipality by the president or the equivalent officer of the employee organization or by that officer's designee.

(e) The municipality shall account for the time donated to the account and used from the account. The municipality may:

(1) determine and credit the actual cash value of the donated time in the account and determine and deduct the actual cash value of time used from the account for legislative leave purposes; or

(2) credit and debit an account on an hour-for-hour basis

regardless of the cash value of the time donated or used.

(f) An employee organization may not use for legislative leave purposes more than 4,000 hours from its time account under this section in a calendar year. If more than one employee organization requests to use legislative leave, each employee organization may use a proportional share of the 4,000 hours based on the total amount of hours donated to the employee organization for its exclusive use before January 2 of the calendar year in which the legislative leave is requested. This section does not prevent an employee organization from accumulating more than 4,000 hours. This subsection only limits the total number of donated hours that one or more employee organizations may use in any calendar year.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 2, eff. Sept. 1, 1997.

Sec. 143.127. GRIEVANCE PROCEDURE. (a) Except as otherwise provided by this subsection, a fire fighter or police officer may file a grievance as provided by this subchapter that relates to any aspect of the fire fighter's or police officer's employment covered by this chapter. The fire fighter or police officer may not file a grievance relating to:

(1) a disciplinary suspension, indefinite suspension, promotional pass over, or demotion or other action or decision for which a hearing, review, or appeal is otherwise provided by this chapter; or

(2) an allegation of discrimination based, in whole or in part, on race, color, religion, sex, or national origin.

(b) The director shall monitor and assist the operation of the grievance procedure. The director's duties include:

(1) aiding the departments and departmental grievance counselors;

(2) notifying the parties of meetings;

(3) docketing cases before the grievance examiner; and

(4) ensuring that the grievance procedure operates timely and effectively.

(c) The department head shall appoint from among the members of the department a grievance counselor whose duties include:

(1) providing appropriate grievance forms to a fire fighter or police officer;

(2) accepting, on behalf of the department head, a step I or II grievance;

(3) assisting the fire fighter or police officer in handling the grievance;

(4) forwarding a copy of a step I or II grievance form to the director and notifying the department head;

(5) arranging a meeting between the fire fighter or police officer and that person's immediate supervisor as prescribed by Section 143.128(b);

(6) arranging the meeting of the fire fighter or police officer and that person's department head or the department head's designated representative as prescribed by Section 143.129(b); and

(7) performing duties that the department head may assign.

(d) The grievance procedure consists of four steps. In any step of the grievance process in which the aggrieved fire fighter's or police officer's immediate supervisor is included, the department head or the departmental grievance counselor may add an appropriate supervisor who is not the fire fighter's or police officer's immediate supervisor or may designate that supervisor to replace the person's immediate supervisor, if the department head or grievance counselor determines that the other supervisor has the authority to resolve the person's grievance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 33(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 9, eff. June 14, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1415 (S.B. 1896), Sec. 2, eff. September 1, 2009.

Sec. 143.128. STEP I GRIEVANCE PROCEDURE. (a) To begin a grievance action, a fire fighter or police officer must file a completed written step I grievance form with the person's department head or departmental grievance counselor within 30 days after the date the fire fighter or police officer knew or should have known of the action or inaction for which the person feels aggrieved occurred. A step I grievance form may be obtained from the departmental grievance counselor. If the form is not timely filed, the grievance is waived.

(b) If the form is filed, the departmental grievance counselor shall arrange a meeting of the fire fighter or police officer, that person's immediate supervisor or other appropriate supervisor or both, and the person or persons against whom the grievance is lodged. The departmental grievance counselor shall schedule the step I meeting within 30 calendar days after the date the grievance is filed. If the grievance is lodged against the department head, the department head may send a representative.

(c) The fire fighter's or police officer's immediate supervisor or other appropriate supervisor, or both, shall fully, candidly, and openly discuss the grievance with the fire fighter or police officer in a sincere attempt to resolve it.

(d) Regardless of the outcome of the meeting, the fire fighter's or police officer's immediate supervisor or other appropriate supervisor, or both, shall provide a written response to the fire fighter or police officer, with a copy to the grievance counselor, within 15 calendar days after the date the meeting occurs. The response must include the supervisor's evaluation and proposed solution. The response shall either be personally delivered to the fire fighter or police officer or be mailed by certified mail, return receipt requested, to the last home address provided by that person.

(e) If the proposed solution is not acceptable, the fire fighter or police officer may file a step II grievance form with the department head or the departmental grievance counselor in accordance with Section 143.129. If the aggrieved fire fighter or police officer fails to timely file a step II grievance form, the solution is considered accepted.

(f) If the supervisor does not provide the response required by Subsection (d) before the 16th day after the date the meeting occurs, the department head shall sustain the fire fighter's or police officer's grievance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 33(c), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 353, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1415 (S.B. 1896), Sec. 3, eff. September 1, 2009.

Sec. 143.129. STEP II GRIEVANCE PROCEDURE. (a) To continue the grievance procedure, the fire fighter or police officer must complete a step II grievance form and file it with the department head or the departmental grievance counselor within 15 calendar days after the date the fire fighter or police officer receives the supervisor's response under Section 143.128.

(b) The departmental grievance counselor shall arrange a meeting of the fire fighter or police officer, that person's immediate supervisor or other appropriate supervisor or both, and the department head or the department head's representative who must have a rank of at least assistant chief or the equivalent. The meeting shall be held within 15 calendar days after the date the step II grievance form is filed under Subsection (a).

(c) Regardless of the outcome of the meeting, the department head or the department head's representative shall provide a written response to the fire fighter or police officer within 15 calendar days after the date the meeting occurs. The response shall either be personally delivered to the fire fighter or police officer or be mailed by certified mail, return receipt requested, to the last home address provided by that person.

(d) If the proposed solution is not acceptable, the fire fighter or police officer may either submit a written request stating the person's decision to appeal to an independent third party hearing examiner pursuant to the provisions of Section 143.057 or file a step III grievance form with the director in accordance with Section 143.130. If the fire fighter or police officer fails to timely file a step III grievance form or a written request to appeal to a hearing examiner, the solution is considered accepted. Notwithstanding Section 143.057(i), if the fire fighter or police officer prevails and the hearing examiner upholds the grievance in its entirety, the department shall bear the cost of the appeal to the hearing examiner. If the fire fighter or police officer fails to prevail and the hearing examiner denies the grievance in its entirety, the fire fighter or police officer shall bear the cost of the appeal to the hearing examiner. If neither party entirely prevails and the hearing examiner upholds part of the grievance and denies part of it, the hearing examiner's fees and expenses shall be shared equally by the fire fighter or police officer and the department.

(e) If the department head or the department head's representative does not provide the response required by Subsection

(c) before the 16th day after the date the meeting occurs, the department head shall sustain the fire fighter's or police officer's grievance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 33(d), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 855, Sec. 1, eff. June 14, 1989; Acts 1995, 74th Leg., ch. 353, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1415 (S.B. 1896), Sec. 4, eff. September 1, 2009.

Sec. 143.130. STEP III GRIEVANCE PROCEDURE. (a) To continue the grievance procedure, the fire fighter or police officer must complete a step III grievance form and file it with the director within 15 calendar days after the date the fire fighter or police officer receives the department head's response under Section 143.129.

(b) The director shall arrange a hearing of the fire fighter or police officer and a grievance examiner to be appointed by the commission under Section 143.132. The hearing shall be held within 15 of the aggrieved fire fighter's or police officer's working days after the date the step III grievance form is filed under Subsection (a).

(c) A hearing shall be conducted as an informal administrative procedure. Grievances arising out of the same or similar fact situations may be heard at the same hearing. A court reporter shall record the hearing. All witnesses shall be examined under oath. The fire fighter or police officer, that person's immediate supervisor or other appropriate supervisor or both, the department head or the department head's designated representative or both, and each person specifically named in the grievance are parties to the hearing. The burden of proof is on the aggrieved fire fighter or police officer.

(d) The grievance examiner shall make written findings and a recommendation for solution of the grievance within 15 calendar days after the date the hearing ends. The findings and recommendation shall be given to the commission and copies mailed to the fire fighter or police officer by certified mail, return receipt requested, at the last home address provided by that person, and to

the department head.

(e) If the proposed solution is not acceptable to either the fire fighter or police officer or the department head, either party may file a step IV grievance form with the director in accordance with Section 143.131. If the fire fighter or police officer or the department head fails to timely file a step IV grievance form, the solution is considered accepted by that person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 33(e), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 353, Sec. 3, eff. Sept. 1, 1995.

Sec. 143.131. STEP IV GRIEVANCE PROCEDURE. (a) If the department head or the fire fighter or police officer rejects the proposed solution under Section 143.130, the department head, the department head's designated representative, or the fire fighter or police officer must complete a step IV grievance form and file it with the director within 15 calendar days after the date the person receives the grievance examiner's recommendation.

(b) The commission shall review the grievance examiner's findings and recommendation and consider the transcript of the step III hearing at the commission's next regularly scheduled meeting or as soon as practicable. The transcript shall be filed within 30 days of the step IV grievance being filed. The commission may for good cause shown grant a reasonable delay not to exceed 30 days to file the transcript. In no event may the commission render a decision later than 30 days after the transcript is filed. If the commission does not render a decision within 30 days after the date the transcript is filed, the commission shall sustain the fire fighter's or police officer's grievance.

(c) The commission shall base its decision solely on the transcript and demonstrative evidence offered and accepted at the step III hearing. The commission shall furnish a written copy of the order containing its decision to the fire fighter or police officer, the department head, and the grievance examiner. The copy to the fire fighter or police officer shall be mailed by certified mail, return receipt requested, to the last home address provided by that person. The commission decision is final.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 33(f), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 11, eff. June 14, 1989; Acts 1995, 74th Leg., ch. 353, Sec. 4, eff. Sept. 1, 1995.

Sec. 143.132. GRIEVANCE EXAMINER. (a) The commission shall appoint a grievance examiner by a majority vote. The commission may appoint more than one grievance examiner if necessary. The commission may appoint a different grievance examiner for each grievance. An examiner may not be affiliated with any other municipal department and is responsible only to the commission. The commission shall pay an examiner from a special budget established for this purpose, and the director shall provide an examiner sufficient office space and clerical support.

(b) The grievance examiner may:

(1) impose a reasonable limit on the time allowed each party and the number of witnesses to be heard;

(2) administer oaths;

(3) examine a witness under oath;

(4) subpoena and require the attendance or production of witnesses, documents, books, or other pertinent material; and

(5) accept affidavits instead of or in addition to live testimony.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.133. SPECIAL PROVISIONS FOR STEPS I AND II. (a) If the aggrieved fire fighter's or police officer's immediate supervisor is the department head, the steps prescribed by Sections 143.128 and 143.129 are combined. The department head shall meet with the aggrieved fire fighter or police officer and may not appoint a representative.

(b) A department head, with the approval of the commission, may change the procedure prescribed by Sections 143.128 and 143.129 to reflect a change in a department's chain of command.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.134. MISCELLANEOUS GRIEVANCE PROVISIONS. (a) A fire

fighter or police officer may represent himself or obtain a representative at any time during the grievance procedure. The municipality is not obligated to provide or pay the costs of providing representation. The representative:

(1) is not required to be an attorney;

(2) is entitled to be present to advise the fire fighter or police officer;

(3) is entitled to present any evidence or information for the fire fighter or police officer; and

(4) may not be prevented from fully participating in any of the grievance proceedings.

(b) A fire fighter or police officer may take reasonable time off from a job assignment to file a grievance and attend a meeting or hearing. Time taken to pursue a grievance may not be charged against that person. The fire fighter or police officer shall be compensated on an overtime basis for the time that person spends at a grievance meeting or hearing if:

(1) the meeting or hearing is scheduled at a time other than that person's normally assigned working hours; and

(2) that person prevails in the grievance.

(c) If notice that a grievance meeting or hearing is to be recorded is provided to all persons present at the meeting or hearing, the fire fighter or police officer, the department head, or the department head's designee may record the meeting or hearing.

(d) The director shall provide a suitable notice explaining the grievance procedure prescribed by this subchapter and furnish copies to each department. Each department head shall cause the notices to be posted in a prominent place or places within the department work areas to give reasonable notice of the grievance procedure to each member of the department.

(e) At the request of the department head of a fire fighter or police officer who has filed a grievance under this subchapter, the municipality's legal department or the director shall assist in resolving the grievance.

(f) The director is the official final custodian of all records involving grievances. A depository for closed files regarding grievances shall be maintained in the civil service department.

(g) A fire fighter or police officer who files a grievance pursuant to Sections 143.127 through and including Section 143.134 is entitled to 48 hours notice of any meeting or hearing scheduled under

Section 143.128(b), 143.129(b), 143.130(b), or 143.131(b). In the event that the fire fighter or police officer is not given 48 hours advance notice, the fire fighter's or police officer's grievance shall be automatically sustained and no further action may be had on the grievance.

(h) If the decision of the commission under Section 143.131 or the decision of a hearing examiner under Section 143.129 that has become final is favorable to a fire fighter, the department head shall implement the relief granted to the fire fighter not later than the 10th day after the date on which the decision was issued. If the department head intentionally fails to implement the relief within the 10-day period, the municipality shall pay the fire fighter $1,000 for each day after the 10-day period that the decision is not yet implemented.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(i), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 10, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 676, Sec. 3, eff. Sept. 1, 1993.

Sec. 143.135. MEDIATION. (a) In this section, "mediation" has the meaning assigned by Section 154.023, Civil Practice and Remedies Code.

(b) The head of the police department may develop and implement an alternative dispute resolution program to refer certain disputes regarding police officers to mediation.

(c) If a dispute is referred to mediation under this section, the time limitations and deadlines under Sections 143.1015, 143.1016, 143.117, 143.118, 143.119, 143.120, and 143.127-143.134 are tolled until the earliest of:

(1) the date the parties reach a settlement and execute a written agreement disposing of the dispute;

(2) the date the mediator refers the dispute to another appeals or grievance procedure under this subchapter; or

(3) the 60th day after the date the dispute was referred to mediation.

(d) The conduct and demeanor of the mediator and the parties to the dispute during the course of the mediation are confidential. A letter, memorandum, document, note, or other oral or written

communication that is relevant to the dispute and made between the mediator and the parties to the dispute or between the parties to the dispute during the course of the mediation procedure:

(1) is confidential and may not be disclosed unless all of the parties to the mediation agree to the disclosure in writing; and

(2) is admissible and discoverable in a separate proceeding only if the letter, memorandum, document, note, or other communication is admissible and discoverable independent of the mediation.

(e) A mediator may not be required to testify in a proceeding concerning information relating to or arising out of the mediation.

(f) Subsection (d) does not apply to a final written agreement to which the police department or municipality is a signatory that is reached as a result of a mediation procedure conducted under this section. Information in the final written agreement is subject to required disclosure, is excepted from required disclosure, or is confidential in accordance with Chapter 552, Government Code, and other law.

(g) If this section conflicts with other legal requirements for disclosure of communications or materials, the issue of confidentiality may be presented to a district court for a judicial district in which the majority of the territory of the municipality is located to determine, in camera, whether the facts, circumstances, and context of the communications or materials sought to be disclosed warrant a protective order of the court or whether the communications or materials are subject to disclosure.

(h) Except to the extent of any conflict with this section, Chapter 154, Civil Practice and Remedies Code, and police department rules apply to a mediation conducted under this section.

(i) Except to the extent of any conflict with this section, Section 2009.054, Government Code, applies to the communications, records, conduct, and demeanor of the mediator and the parties.

(j) Section 143.1014 does not apply to a meeting or hearing conducted under this section.

Added by Acts 2003, 78th Leg., ch. 517, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER H. LOCAL CONTROL OF FIRE FIGHTER EMPLOYMENT MATTERS IN MUNICIPALITIES WITH POPULATION OF 1.5 MILLION OR MORE

Sec. 143.201. POPULATION. This subchapter applies only to a municipality with a population of 1.5 million or more, but does not apply to a municipality that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes).

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.202. DEFINITIONS. In this subchapter:

(1) "Fire fighters association" means an organization in which fire fighters participate and which exists for the purpose, in whole or in part, of dealing with one or more employers, whether public or private, concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work affecting public employees.

(2) "Public employer" means any municipality or agency, board, commission, or political subdivision controlled by a municipality which is required to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of public employees. The term may include, under appropriate circumstances, a mayor, manager, administrator of a municipality, municipal governing body, director of personnel, personnel board, or one or more other officials, regardless of the name by which they are designated.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.203. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) A municipality may not be denied local control over the wages, salaries, rates of pay, hours of work, and other terms and conditions of employment, or other state-mandated personnel issues, if the public employer and the fire fighters association recognized as the sole and exclusive bargaining agent for all officers covered by this subchapter come to a mutual agreement on any of the terms listed above. If no agreement is reached, the existing state laws, local ordinances, and civil service rules remain unaffected. All agreements shall be reduced to writing. Nothing in this subchapter shall require either party to meet and confer on any issue or reach an agreement.

(b) A public employer may only meet and confer if the fire

fighters association recognized under this subchapter as the sole and exclusive bargaining agent does not advocate the illegal right to strike by public employees.

(c) Fire fighters of a municipality may not engage in strikes or organized work stoppages against this state or a political subdivision of this state. A fire fighter who participates in a strike forfeits all civil service rights, reemployment rights, and any other rights, benefits, or privileges the fire fighter enjoys as a result of employment or prior employment, except that the right of an individual to cease work may not be abridged if the individual is not acting in concert with others in an organized work stoppage.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.204. RECOGNITION OF FIRE FIGHTER ASSOCIATION. (a) A fire fighters association submitting a petition signed by a majority of the paid fire fighters in the municipality, excluding the head of the department and assistant department heads in the rank or classification immediately below that of the department head, may be recognized by the public employer as the sole and exclusive bargaining agent for all of the covered fire fighters unless and until recognition of the association is withdrawn by a majority of those fire fighters.

(b) In the event of a question about whether a fire fighters association represents a majority of the covered fire fighters, the question shall be resolved by a fair election conducted according to procedures agreeable to the parties. If the parties are unable to agree on such procedures, either party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election resolves the question concerning representation. The fire fighters association is liable for the expenses of the election, except that if two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the covered fire fighters, the associations shall share equally the costs of the election.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.205. OPEN RECORDS REQUIRED. All documents relating to

an agreement between a fire fighters association and a public employer shall be available to the public pursuant to state statutes.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.206. ENFORCEABILITY OF AGREEMENT. (a) A written agreement made under this subchapter between a public employer and a fire fighters association recognized as the sole and exclusive bargaining agent is enforceable and binding upon the public employer, the fire fighters association recognized as the sole and exclusive bargaining agent, and fire fighters covered by the agreement if:

(1) the municipality's governing body ratified the agreement by a majority vote; and

(2) the fire fighters association ratified the agreement by a majority of the votes received in a referendum of its members by secret ballot.

(b) The state district court of the judicial district in which the municipality is located has full authority and jurisdiction on the application of either party aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by any written agreement ratified by both the public employer and the fire fighters association. The court may issue proper restraining orders, temporary and permanent injunctions, and any other writ, order, or process, including contempt orders, that are appropriate to enforcing any written agreement ratified by both the public employer and the fire fighters association.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 373, Sec. 1, eff. May 28, 1997.

Sec. 143.207. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) A written agreement under this subchapter between a public employer and the fire fighters association recognized as the sole and exclusive bargaining agent supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, and other terms and conditions of employment to the extent of any conflict with the previous statute.

(b) A written agreement under this subchapter preempts all

contrary local ordinances, executive orders, legislation, or rules adopted by the state or a political subdivision or agent of the state, such as a personnel board, a civil service commission, or a home-rule municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this chapter or other law unless approved by a majority of the votes received in a secret ballot referendum of the members of the fire fighters association recognized as the sole and exclusive bargaining agent.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 373, Sec. 2, eff. May 28, 1997.

Sec. 143.208. REPEAL OF AGREEMENT BY ELECTORATE. Within 45 days after an agreement is ratified and signed by both the municipality and the fire fighters association recognized as the sole and exclusive bargaining agent, a petition signed by a number of registered voters equal to 10 percent of the votes cast at the most recent mayoral general election may be presented to the municipal secretary calling an election for the repeal of the agreement. Thereupon, the governing body shall reconsider the agreement and, if it does not repeal the agreement, shall call an election of the qualified voters to determine if they desire to repeal the agreement. The election shall be called for the next municipal election or a special election called by the governing body for that purpose. If at the election a majority of the votes are cast in favor of the repeal of the adoption of the agreement, then the agreement shall become null and void. The ballot shall be printed to provide for voting FOR or AGAINST the proposition:

"Repeal of the adoption of the agreement ratified by the municipality and the fire fighters association concerning wages, salaries, rates of pay, hours of work, and other terms and conditions of employment."

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.15, eff. Sept. 1, 1999.

Sec. 143.209. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. (a) For the purpose of any disciplinary appeal to either the civil service commission or a hearing examiner, all members of the bargaining unit shall have the right to choose to be represented by any person of their choice or the fire fighters association.

(b) No agreement shall interfere in the right of members of the fire fighters association to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

SUBCHAPTER I. FIRE FIGHTER AND POLICE OFFICER EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 143.301. MUNICIPALITIES COVERED BY SUBCHAPTER. This subchapter applies only to a municipality with a population of 460,000 or more that operates under a city manager form of government. This subchapter does not apply to a municipality:

(1) that has adopted Chapter 174 (The Fire and Police Employee Relations Act); or

(2) to which Subchapter H applies.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.3015. LIMITATION ON MUNICIPALITIES COVERED BY SUBCHAPTER: VOTER APPROVAL. (a) The governing body of a municipality with a population less than 560,000 that has not recognized an association as the sole and exclusive bargaining agent as provided by Section 143.304 before September 1, 2001, must receive voter approval under this section before operating under the other provisions of this subchapter.

(b) The governing body shall call an election if:

(1) a majority of the members of the governing body vote to hold the election; or

(2) the voters submit a petition requesting the election as required by this section.

(c) A petition for election must:

(1) be signed by a number of qualified voters of the municipality equal to at least 10 percent of the number of voters who voted in the most recent municipal election for mayor; and

(2) comply with Chapter 277, Election Code.

(d) Not later than the 40th working day after the date a petition is presented to the governing body, the municipal secretary shall certify to the governing body the number and percentage of registered voters signing the petition.

(e) Upon receiving a petition in compliance with this subchapter, the governing body shall order an election submitting to the voters the question of whether this subchapter should be adopted for firefighters, police officers, or both. The election must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the petition is filed and that allows sufficient time to comply with other requirements of law.

(f) The ballot for an election called under this section shall be printed to permit voting for or against the proposition: "Authorizing (name of the governing body of the municipality) to recognize an employee association as a sole and exclusive bargaining agent for the municipal (insert firefighters, police officers, or both, as applicable,) and authorizing the (name of the governing body of the municipality) to make agreements with the employee association as provided by state law."

(g) An election authorized by this section shall be held and the returns shall be prepared and canvassed in conformity with the Election Code.

(h) The municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(i) Notwithstanding Subsections (a) and (h), a municipality with a population of less than 560,000 that has not recognized an association as the sole and exclusive bargaining agent as provided by Section 143.304 before September 1, 2005, may adopt rules for police officers converting vacation and sick leave days to hours that supersede the provisions of Section 142.0013, Section 143.045, and Section 143.046 provided that:

(1) A police officer is entitled to earn 120 hours of vacation leave each year with pay, as a minimum, if the officer has been regularly employed in the department or departments for at least

one year.

(2) In computing the length of time a police officer may be absent from work on vacation leave, only those hours that the person would have been required to work if not on vacation may be counted as vacation leave.

(3) A police officer shall be granted the same number of vacation hours and holiday hours, or hours in lieu of vacation hours or holiday hours, granted to other municipal employees who work the same number of hours in a regular work day and have worked for the municipality for the same number of years.

(4) A police officer shall be granted sick leave with pay accumulated at the rate of 10 hours for each full month employed in a calendar year, so as to total 120 hours to the person's credit each 12 months.

(5) A police officer who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the person's salary for accumulated sick leave if the person has accumulated not more than 720 hours of sick leave, the person's employer may limit payment to the amount that the person would have received if the person had been allowed to use 720 hours of accumulated sick leave during the last six months of employment. The lump-sum payment is computed by compensating the police officer for the accumulated time at the highest permanent pay classification for which the person was eligible during the last six months of employment. The police officer is paid for the same period for which the person had taken the sick leave but does not include additional holidays and any sick leave or vacation time that the person might have accrued during the 720 hours.

Added by Acts 2001, 77th Leg., ch. 425, Sec. 1, eff. May 28, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 145 (S.B. 189), Sec. 1, eff. May 21, 2007.

Sec. 143.302. DEFINITIONS. In this subchapter:

(1) "Association" means an organization in which fire fighters or police officers participate and that exists for the

purpose, in whole or in part, of dealing with one or more employers, whether public or private, concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work affecting public employees.

(2) "Public employer" means any municipality or agency, board, commission, or political subdivision controlled by a municipality that is required to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of public employees. The term may include, under appropriate circumstances, a mayor, manager, administrator of a municipality, municipal governing body, director of personnel, or personnel board or one or more other officials, regardless of the name by which they are designated.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.303. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) A municipality may not be denied local control over wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other personnel issues on which the public employer and an association that is recognized as the sole and exclusive bargaining agent for all fire fighters or police officers in the municipality agree. A term or condition on which the public employer and the association do not agree is governed by the applicable statutes, local ordinances, and civil service rules. An agreement must be reduced to writing. This subchapter does not require the public employer and the association to meet and confer or reach an agreement on any issue.

(b) A public employer and an association recognized under this subchapter as a sole and exclusive bargaining agent may meet and confer only if the association does not advocate the illegal right to strike by public employees.

(c) A fire fighter or police officer of a municipality may not engage in a strike or organized work stoppage against this state or a political subdivision of this state. A fire fighter or police officer who participates in a strike forfeits all civil service rights, reemployment rights, and other rights, benefits, or privileges the fire fighter or police officer enjoys as a result of the person's employment or previous employment with the municipality.

This subsection does not affect the right of a person to cease employment if the person is not acting in concert with other fire fighters or police officers.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.304. RECOGNITION OF FIRE FIGHTERS OR POLICE OFFICERS ASSOCIATION. (a) The public employer may recognize an association that submits a petition signed by a majority of the paid fire fighters or police officers in the municipality, excluding the head of the department and assistant department heads in the rank or classification immediately below that of the department head, as the sole and exclusive bargaining agent for all of the covered fire fighters or police officers unless recognition of the association is withdrawn by a majority of the covered fire fighters or police officers.

(b) A question of whether an association is the majority representative of the covered fire fighters or police officers shall be resolved by a fair election conducted according to procedures agreed on by the parties. If the parties are unable to agree on election procedures, either party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election under this subsection resolves the question concerning representation. The association shall pay the costs of the election, except that if two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the covered fire fighters or police officers, the associations shall share equally the costs of the election.

(c) The public employer's manager or chief executive and the police chief or fire chief, as appropriate, shall designate a team to represent the public employer as its sole and exclusive bargaining agent for issues related to the fire department and a separate team to represent the public employer as its sole and exclusive bargaining agent for issues related to the police department.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.305. OPEN RECORDS REQUIRED. An agreement made under

this subchapter is a public record for purposes of Chapter 552, Government Code. The agreement and any document prepared and used by the municipality in connection with the agreement are available to the public under the open records law, Chapter 552, Government Code, only after the agreement is ratified by the municipality's governing body. This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used by the municipality in connection with the agreement.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.306. ENFORCEABILITY OF AGREEMENT. (a) A written agreement made under this subchapter between a public employer and an association is binding on the public employer, the association, and fire fighters or police officers covered by the agreement if:

(1) the municipality's governing body ratifies the agreement by a majority vote; and

(2) the applicable association ratifies the agreement by a majority vote of its members by secret ballot.

(b) An agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on interpretation of the agreement.

(c) The district court of the judicial district in which the municipality is located has full authority and jurisdiction on the application of either party aggrieved by an act or omission of the other party related to a right, duty, or obligation provided by a written agreement ratified as described by Subsection (a). The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including a contempt order, that is appropriate to enforce the agreement.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.307. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) An agreement under this subchapter supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent of any conflict with the statute.

(b) An agreement under this subchapter preempts any contrary statute, executive order, local ordinance, or rule adopted by the state or a political subdivision or agent of the state, including a personnel board, a civil service commission, or a home-rule municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this chapter or other law unless approved by a majority vote by secret ballot of the members of the association recognized as a sole and exclusive bargaining agent.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.308. REPEAL OF AGREEMENT BY ELECTORATE. Not later than the 45th day after the date an agreement is ratified by both the municipality and the association, a petition signed by at least 10 percent of the qualified voters of the municipality may be presented to the municipal secretary calling an election for the repeal of the agreement. On receipt of the petition by the municipal secretary, the governing body shall reconsider the agreement and either repeal the agreement or call an election of the qualified voters to determine if they desire to repeal the agreement. The election shall be called for the next municipal election or a special election called by the governing body for that purpose. If at the election a majority of the votes are cast in favor of the repeal of the adoption of the agreement, the agreement is void. The ballot shall be printed to permit voting for or against the proposition: "Repeal of the adoption of the agreement ratified by the municipality and the _____ (fire fighters or police officers, as appropriate) association concerning wages, salaries, rates of pay, hours of work, and other terms and conditions of employment."

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.309. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. (a) For the purpose of any disciplinary appeal to the civil service commission or to a hearing examiner, a member of the bargaining unit may choose to be represented by any person of the member's choice or by the association.

(b) An agreement may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.310. BINDING INTEREST ARBITRATION. A municipality may be required to submit to binding interest arbitration only if approved by a majority of those voting in a public referendum conducted in accordance with the municipality's charter. This subsection does not affect any disciplinary arbitration or arbitration provision in a ratified agreement.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.311. APPOINTMENTS TO CLASSIFICATION IMMEDIATELY BELOW DEPARTMENT HEAD. Section 143.014(c) does not apply to a municipality to which this subchapter applies.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.312. INVESTIGATION OF FIRE FIGHTERS AND POLICE OFFICERS. (a) This section does not apply to a municipality to which Section 143.123 applies.

(b) In this section:

(1) "Complainant" means a person claiming to be the victim of misconduct by a fire fighter or police officer.

(2) "Investigation" means an administrative investigation, conducted by the municipality, of alleged misconduct by a fire fighter or police officer that could result in punitive action against that person.

(3) "Investigator" means an agent or employee of the municipality who is assigned to conduct an investigation.

(4) "Normally assigned working hours" includes those hours during which a fire fighter or police officer is actually at work or

at the person's assigned place of work, but does not include any time when the person is off duty on authorized leave, including sick leave.

(5) "Punitive action" means a disciplinary suspension, indefinite suspension, demotion in rank, written reprimand, or any combination of those actions.

(c) An investigator may interrogate a fire fighter or police officer who is the subject of an investigation only during the fire fighter's or police officer's normally assigned working hours unless:

(1) the seriousness of the investigation, as determined by the fire fighter's or police officer's department head or the department head's designee, requires interrogation at another time; and

(2) the fire fighter or police officer is compensated for the interrogation time on an overtime basis.

(d) The department head may not consider work time missed from regular duties by a fire fighter or police officer due to participation in the conduct of an investigation in determining whether to impose a punitive action or in determining the severity of a punitive action.

(e) An investigator may not interrogate a fire fighter or police officer who is the subject of an investigation or conduct any part of the investigation at that person's home without that person's permission.

(f) A person may not be assigned to conduct an investigation if the person is the complainant, the ultimate decision-maker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct. A fire fighter or police officer who is the subject of an investigation has the right to inquire and, on inquiry, to be informed of the identities of each investigator participating in an interrogation of the fire fighter or police officer.

(g) Not less than 48 hours before an investigator begins the initial interrogation of a fire fighter or police officer who is the subject of an investigation, the investigator must inform the fire fighter or police officer in writing of the allegations in the complaint. An investigator may not interrogate a fire fighter or police officer based on a complaint by a complainant who is not a fire fighter or police officer unless the complainant verifies the complaint in writing before a public officer who is authorized by law

to take statements under oath. In an investigation under this subsection, an investigator may interrogate a fire fighter or police officer about events or conduct reported by a witness who is not a complainant without disclosing the name of the witness. An interrogation may be based on a complaint from an anonymous complainant if the departmental employee receiving the anonymous complaint certifies in writing, under oath, that the complaint was anonymous. This subsection does not apply to an on-the-scene investigation that occurs immediately after an incident being investigated, except that the fire fighter or police officer under investigation must be furnished, as soon as practicable, a written statement of the allegations in the complaint.

(h) An interrogation session of a fire fighter or police officer who is the subject of an investigation may not be unreasonably long. In determining reasonableness, the gravity and complexity of the investigation must be considered. The investigators shall allow reasonable interruptions to permit the fire fighter or police officer to attend to personal physical necessities.

(i) An investigator may not threaten a fire fighter or police officer who is the subject of an investigation with punitive action during an interrogation. An investigator may inform a fire fighter or police officer that failure to answer truthfully reasonable questions directly related to the investigation or to cooperate fully in the conduct of the investigation may result in punitive action.

(j) If prior notification of intent to record an interrogation is given to the other party, either the investigator or the fire fighter or police officer who is the subject of an interrogation may record the interrogation.

(k) If an investigation does not result in punitive action against a fire fighter or police officer but does result in a written reprimand or an adverse finding or determination regarding that person, the reprimand, finding, or determination may not be placed in that person's personnel file unless the fire fighter or police officer is first given an opportunity to read and sign the document. If the fire fighter or police officer refuses to sign the reprimand, finding, or determination, it may be placed in the personnel file with a notation that the person refused to sign it. A fire fighter or police officer may respond in writing to a reprimand, finding, or determination that is placed in the person's personnel file under this subsection by submitting a written response to the department

head not later than the 10th day after the date the fire fighter or police officer is asked to sign the document. The response shall be placed in the personnel file. A fire fighter or police officer who receives a punitive action and who elects not to appeal the action may file a written response as prescribed by this subsection not later than the 10th day after the date the person is given written notice of the punitive action from the department head.

(l) A violation of this section may be considered by the commission or hearing examiner during a disciplinary appeal hearing if the violation substantially impaired the fire fighter's or police officer's ability to defend against the allegations of misconduct.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.313. POLYGRAPH EXAMINATIONS. (a) This section does not apply to a municipality to which Section 143.124 applies.

(b) A fire fighter employed by the municipality may not be required to submit to a polygraph examination as part of an internal investigation regarding the conduct of the fire fighter unless:

(1) the complainant submits to and passes a polygraph examination; or

(2) the fire fighter is ordered to take an examination under Subsection (f).

(c) Subsection (b) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(d) For the purposes of this section, a fire fighter passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated in the examination regarding matters critical to the subject matter under investigation.

(e) The results of a polygraph examination that relate to the complaint under investigation are not admissible in a proceeding before the commission or a hearing examiner.

(f) The head of the fire department may order a fire fighter to submit to a polygraph examination if the fire department head:

(1) considers the circumstances to be extraordinary; or

(2) believes that the integrity of a fire fighter or the fire department is in question.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 1303, Sec. 3, eff. June 20,

1997.

SUBCHAPTER J. LOCAL CONTROL OF POLICE OFFICER EMPLOYMENT MATTERS IN MUNICIPALITIES WITH POPULATION OF 1.5 MILLION OR MORE

Sec. 143.351. APPLICABILITY. This subchapter applies only to a municipality with a population of 1.5 million or more but does not apply to a municipality that has adopted Chapter 174.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.

Sec. 143.352. DEFINITIONS. In this subchapter:

(1) "Bargaining agent" means the police employee group selected under Section 143.354 to represent all police officers employed by the municipality, excluding the department head and assistant department heads, during negotiations with the public employer.

(2) "Police employee group" means an organization:

(A) in which at least three percent of the police officers of the municipality participate and pay dues via automatic payroll deduction; and

(B) which exists for the purpose, in whole or part, of dealing with the municipality concerning grievances, labor disputes, wages, rates of pay, benefits other than pension benefits, hours of employment, or conditions of work affecting police officers.

(3) "Public employer" means any municipality or agency, board, commission, or political subdivision controlled by a municipality that is required to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of police officers. The term includes, under appropriate circumstances, a mayor, manager, administrator of a municipality, municipal governing body, director of personnel, personnel board, or one or more other officials, regardless of the name by which they are designated.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 1, eff. Sept. 1, 2001.

Sec. 143.353. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) A municipality may not be denied local control over the wages, salaries, rates of pay, hours of work, and other terms of employment, or other state-mandated personnel issues, if the public employer and the bargaining agent come to a mutual agreement on any of the terms of employment. If an agreement is not reached, the state laws, local ordinances, and civil service rules remain unaffected. All agreements shall be written. Nothing in this subchapter requires either party to meet and confer on any issue or reach an agreement.

(b) A public employer may only meet and confer if the bargaining agent does not advocate the illegal right to strike by public employees.

(c) Police officers of a municipality may not engage in strikes or organized work stoppages against this state or a political subdivision of this state. A police officer who participates in a strike or work stoppage forfeits all civil service rights, reemployment rights, and any other rights, benefits, or privileges the police officer enjoys as a result of employment or prior employment.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 2, eff. Sept. 1, 2001.

Sec. 143.354. RECOGNITION OF POLICE EMPLOYEE GROUP. (a) The public employer in accordance with this section may recognize a police employee group as the sole and exclusive bargaining agent for all of the police officers in the municipality, excluding the department head and assistant department heads, unless recognition of the police employee group is withdrawn by a majority of those police officers, if the employee group submits a petition signed by 40 percent of:

(1) the number of police officers in the municipality who voted in the last election held under Section 143.360 before the petition is submitted, excluding the head of the department and assistant department heads in the rank or classification immediately below that of the department head; or

(2) the paid police officers in the municipality, excluding

the head of the department and assistant department heads in the rank or classification immediately below that of the department head, if an election under Section 143.360 has not been held in the municipality.

(b) A petition submitted under Subsection (a) must clearly show on each page the name of the police employee group circulating the petition. A police officer who signs a petition submitted under Subsection (a) may not be counted towards the 40 percent requirement under that subsection unless that officer's printed name and payroll number and the date of the signature are included on the petition. The petition must be submitted to the municipal secretary not later than the 60th day after the first date on which a police officer signs the petition.

(c) Within the 30 days after the date the petition is submitted, the municipal secretary shall verify the signatures on the petition and, if the petition complies with this section, call for the election. The election shall be conducted within 45 days after the date on which the municipal secretary calls for the election.

(d) An election required by this section shall be conducted according to procedures agreed on by the parties. If the parties are unable to agree on election procedures, either party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election under this subsection resolves the question concerning representation. The police employee group shall pay the costs of the election, except that if two or more police employee groups seeking recognition as the bargaining agent submit petitions signed by a majority of the police officers eligible to sign the petition, the police employee groups shall share equally the costs of the election. A police employee group must make payments required by this subsection not later than the 10th day before the date of the election.

(e) The public employer's chief executive officer shall designate a team to represent the public employer as its sole and exclusive bargaining agent for issues related to the police department.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 3, eff. Sept. 1, 2001.

Sec. 143.358. OPEN RECORDS REQUIRED. All documents relating to an agreement between a bargaining agent and a public employer shall be available to the public in accordance with state statutes.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 5, eff. Sept. 1, 2001.

Sec. 143.359. ENFORCEABILITY OF AGREEMENT. (a) A written agreement made under this subchapter between a public employer and a bargaining agent is enforceable and binding on the public employer, the bargaining agent, police employee groups, and the police officers covered by the agreement if:

(1) the municipality's governing body ratified the agreement by a majority vote; and

(2) the agreement is ratified under Section 143.360.

(b) A state district court of the judicial district in which a majority of the population of the municipality is located has full authority and jurisdiction on the application of either party aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by any written agreement ratified as required by this subchapter. The court may issue proper restraining orders, temporary and permanent injunctions, and any other writ, order, or process, including contempt orders, that are appropriate to enforcing any written agreement ratified as required by this subchapter.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 6, eff. Sept. 1, 2001.

Sec. 143.360. ELECTION TO RATIFY AGREEMENT. (a) The bargaining agent shall call an election to ratify any agreement reached with the public employer.

(b) All police officers of the municipality, other than the department head and assistant department heads, are eligible to vote in the election.

(c) The bargaining agent shall establish procedures for the election.

(d) A majority of all votes cast is required to ratify an agreement.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 7, eff. Sept. 1, 2001.

Sec. 143.361. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) A written agreement ratified under this subchapter between a public employer and the bargaining agent supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, and other terms of employment other than pension benefits to the extent of any conflict with the previous statute.

(b) A written agreement ratified under this subchapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by the state or a political subdivision or agent of the state, such as a personnel board, a civil service commission, or a home-rule municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this chapter or other law unless approved by a majority of the votes cast at the secret ballot election held by the bargaining agent to ratify the agreement.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 8, eff. Sept. 1, 2001.

Sec. 143.362. REPEAL OF AGREEMENT BY ELECTORATE. Within 45 days after the date an agreement is ratified and signed by the municipality and the bargaining agent, a petition signed by a number of registered voters equal to 10 percent of the votes cast at the most recent mayoral general election in the municipality may be presented to the municipal secretary calling an election for the repeal of the agreement, in which event the governing body shall reconsider the agreement, and, if it does not repeal the agreement, it shall call an election of the qualified voters to determine if

they desire to repeal the agreement. The election shall be held as part of the next regularly scheduled municipal election or at a special election called by the governing body for that purpose. If at the election a majority of the votes are cast in favor of the repeal of the adoption of the agreement, the agreement becomes void. The ballot shall be printed to provide for voting for or against the proposition:

"Repeal of the adoption of the agreement ratified by the municipality and the police officers of the municipality concerning wages, salaries, rates of pay, certain benefits, hours of work, and other terms of employment."

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 9, eff. Sept. 1, 2001.

Sec. 143.363. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. (a) For the purpose of any disciplinary appeal to either the civil service commission or a hearing examiner, all police officers have the right to choose to be represented by any person of their choice or by the police employee group selected as the bargaining agent.

(b) An agreement may not interfere with the right of a member of a police employee group to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 10, eff. Sept. 1, 2001.

SUBCHAPTER K. CIVIL SERVICE STATUS OF EMERGENCY MEDICAL SERVICES PERSONNEL IN CERTAIN MUNICIPALITIES

Sec. 143.401. APPLICABILITY. (a) This subchapter applies only to a municipality:

(1) with a population of 460,000 or more that operates under a city manager form of government; and

(2) that employs emergency medical services personnel in a

municipal department other than the fire department.

(b) In this subchapter, "emergency medical services personnel" has the meaning assigned by Section 773.003, Health and Safety Code. The term applies only to an individual certified under Chapter 773, Health and Safety Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 708 (H.B. 554), Sec. 1, eff. June 17, 2011.

Sec. 143.402. ELECTION TO ADOPT OR REPEAL SUBCHAPTER. (a) A municipality may hold an election to adopt or repeal this subchapter as provided by this section.

(b) If the governing body of the municipality receives a petition requesting an election that is signed by a number of registered voters who reside in the municipality equal to at least 10 percent of the number of voters who voted in the most recent municipal general election, the governing body shall order an election submitting to the voters the question of whether this subchapter should be adopted. The election must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the petition is filed and that allows sufficient time to comply with other requirements of law.

(c) The ballot shall be printed to provide for voting for or against the proposition: "Adoption of the emergency medical services personnel civil service law." If a majority of the votes received in the election favor adoption of this subchapter, the governing body shall implement this subchapter.

(d) A petition for a subsequent election to be held under Subsection (b) may not be filed for at least one year after the date of a previous election under that subsection. To be valid, a petition for a subsequent election must contain the signatures of a number of registered voters who reside in the municipality equal to at least 20 percent of the number of voters who voted in the most recent municipal general election. Any subsequent election must be held at the next municipal general election that occurs after the petition is filed.

(e) If the governing body of a municipality that has operated under this subchapter for at least one year receives a petition requesting an election to repeal this subchapter that is signed by at

least 10 percent of the registered voters who reside in the municipality, the governing body shall order an election submitting to the voters the question of whether this subchapter should be repealed. If a majority of the votes received favor repeal of this subchapter, this subchapter is void in that municipality.

Added by Acts 2011, 82nd Leg., R.S., Ch. 708 (H.B. 554), Sec. 1, eff. June 17, 2011.

Sec. 143.403. STATUS OF EMPLOYEES IF SUBCHAPTER ADOPTED. (a) Each person who is employed for more than six months as emergency medical services personnel serving in a municipality at the time this subchapter is adopted in the municipality and who is entitled to civil service classification has the status of a civil service employee and is not required to take a competitive examination to remain in the position the person occupies at the time of the adoption.

(b) On adoption of this subchapter, the governing body of the municipality employing emergency medical services personnel shall classify the personnel in accordance with Section 143.021 and the duties performed by the personnel.

(c) To the extent it can be made applicable, each provision of this chapter, including the provisions relating to eligibility lists, examinations, promotions, appointments, educational incentive pay, longevity or seniority pay, certification pay, assignment pay, salary, vacation leave, and disciplinary appeals, applies to emergency medical services personnel covered by this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 708 (H.B. 554), Sec. 1, eff. June 17, 2011.

CHAPTER 144. ELECTRONIC FUNDS TRANSFER OF COMPENSATION AND REIMBURSEMENT OF MUNICIPAL OFFICERS AND EMPLOYEES

Sec. 144.001. TRANSFER SYSTEM AUTHORIZED. (a) A municipality may establish and operate an electronic funds transfer system to transfer the following items directly into officers' and employees' accounts in financial institutions only:

(1) the net pay of the officers and employees;

(2) payments for the travel and subsistence of the officers

and employees; and

(3) all other forms of compensation, payment, or reimbursement paid to the officers and employees.

(b) The authority granted by this chapter may not be restricted by a municipal charter.

Added by Acts 1989, 71st Leg., ch. 1047, Sec. 1, eff. Aug. 28, 1989.

Sec. 144.002. PAYEE REQUEST. An authorized payee must request in writing to participate in any electronic funds transfer system established and operated by the municipality.

Added by Acts 1989, 71st Leg., ch. 1047, Sec. 1, eff. Aug. 28, 1989.

Sec. 144.003. ADMINISTRATION OF SYSTEM. The municipal treasurer, with the approval of the governing body of the municipality, shall establish the procedures for administering the system and may use the services of financial institutions, automated clearinghouses, and the federal government.

Added by Acts 1989, 71st Leg., ch. 1047, Sec. 1, eff. Aug. 28, 1989.

Sec. 144.004. TRANSFER TO MULTIPLE PAYEES. A single transfer may contain payments to multiple payees without the necessity of issuing individual warrants for each payee.

Added by Acts 1989, 71st Leg., ch. 1047, Sec. 1, eff. Aug. 28, 1989.

Sec. 144.005. NO ADDITIONAL RIGHTS CREATED. The use of an electronic funds transfer means of payment does not create any rights that would not have been created if an individual warrant had been used as a means of payment.

Added by Acts 1989, 71st Leg., ch. 1047, Sec. 1, eff. Aug. 28, 1989.

CHAPTER 145. FINANCIAL DISCLOSURE BY AND STANDARDS OF CONDUCT FOR

LOCAL GOVERNMENT OFFICERS

Sec. 145.001. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality with a population of 100,000 or more.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.

Sec. 145.002. DEFINITIONS. In this chapter:

(1) "Deliver" means transmitting by mail, personal delivery, or e-mail or any other means of electronic transfer.

(2) "Municipal officer" means the mayor, a member of the governing body, the municipal attorney, or the city manager of a municipality.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 223 (H.B. 1246), Sec. 1, eff. September 1, 2015.

Sec. 145.003. FINANCIAL STATEMENT REQUIRED. (a) A municipal officer or a candidate for a municipal office filled by election shall file a financial statement as required by this chapter.

(b) The statement must:

(1) be filed with the clerk or secretary of the municipality in which the officer or candidate resides; and

(2) comply with Sections 572.022 and 572.023, Government Code.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.

Sec. 145.004. FILING DATES; TIMELINESS OF FILING. (a) A municipal officer shall file the financial statement required by this chapter within the time prescribed by Section 572.026(a), Government Code.

(b) A person who is appointed to a municipal office shall file the financial statement required by this chapter within the time

prescribed by Section 572.026(c), Government Code.

(c) A candidate for a municipal office filled by election shall file the financial statement required by this chapter not later than the earlier of:

(1) the 20th day after the deadline for filing an application for a place on the ballot in the election; or

(2) the fifth day before the date of the election.

(d) Except as provided in Subsection (g), the timeliness of the filing is governed by Section 572.029, Government Code.

(e) A municipal officer or a person who is appointed to a municipal office may request the clerk or secretary of the municipality to grant an extension of not more than 60 days for filing the statement. The clerk or secretary shall grant the request if it is received before the filing deadline or if the officer's physical or mental incapacity prevents the officer from filing the statement or requesting an extension before the filing deadline. The clerk or secretary may not grant more than one extension to a person in one year except for good cause shown.

(f) The clerk or secretary may not grant an extension to a candidate for a municipal office filled by election.

(g) A person is considered to have timely filed a financial statement under this chapter if:

(1) the statement is personally delivered not later than 5 p.m. of the last day for filing the statement; or

(2) the clerk or secretary of the municipality with whom the statement is required to be filed has adopted rules and procedures to provide for the electronic filing of the statement and the statement is electronically filed in accordance with those rules and procedures not later than midnight of the last day for filing the statement.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 894 (H.B. 1035), Sec. 2, eff. September 1, 2013.

Sec. 145.005. FORM OF STATEMENT. (a) The clerk or secretary of the municipality shall require that the form designed by the Texas

Ethics Commission under Chapter 572, Government Code, be used for filing the financial statement.

(b) The clerk or secretary shall deliver at least one copy of the form to each municipal officer or person who is appointed to a municipal office who is required to file under this chapter within the time prescribed by Section 572.030(c)(1), Government Code. The clerk or secretary shall deliver a copy of the form to each candidate for a municipal office filled by election who is required to file under this chapter not later than the 10th day before the deadline for filing the statement under Section 145.004(c). The clerk or secretary may choose one or more methods to deliver the form.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 223 (H.B. 1246), Sec. 2, eff. September 1, 2015.

Sec. 145.006. DUPLICATE OR SUPPLEMENTAL STATEMENTS. If a person has filed a financial statement under one provision of this chapter covering the preceding calendar year, the person is not required to file a financial statement required under another provision of this chapter covering that same year if, before the deadline for filing the statement under the other provision, the person notifies the clerk or secretary of the municipality in writing that the person has already filed a financial statement under this chapter covering that year.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.

Sec. 145.007. PUBLIC ACCESS TO STATEMENTS. (a) Financial statements filed under this chapter are public records. The clerk or secretary of the municipality shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours.

(b) Until the first anniversary of the date a financial statement is filed, each time a person, other than the clerk or secretary of the municipality or an employee of the clerk or

secretary who is acting on official business, requests to see the financial statement, the clerk or secretary shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The clerk or secretary shall retain that statement in the file until the first anniversary of the date the requested financial statement is filed.

(c) The clerk or secretary of the municipality may, and on notification from a former officer or candidate shall, destroy any financial statements filed by the officer or candidate after the second anniversary of the date the person ceases to be an officer or candidate, as applicable.

(d) On the written request of a municipal court judge of the municipality or a candidate for municipal court judge, the clerk or secretary of the municipality shall remove or redact the residence address of the municipal court judge, municipal court judge's family member, or candidate for the office of municipal court judge, from a financial statement filed under this chapter before the financial statement is made available to a member of the public.

(e) In this section, "family member" has the meaning assigned by Section 31.006, Finance Code.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 518 (S.B. 489), Sec. 3, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 383 (S.B. 1134), Sec. 11, eff. September 1, 2021.

Sec. 145.008. NOTIFICATION TO PROSECUTING ATTORNEY. The clerk or secretary of each municipality shall maintain a list of the municipal officers and candidates for municipal office required to file a financial statement under this chapter. Not later than the 10th day after each applicable filing deadline, the municipal clerk shall provide to the municipal attorney a copy of the list showing for each municipal officer and candidate for municipal office:

(1) whether the officer or candidate timely filed a financial statement as required by this chapter;

(2) whether the officer or candidate timely requested and

was granted an extension of time to file as provided for by Section 145.004 and the new due date for each such officer or candidate; or

(3) whether the officer or candidate did not timely file a financial statement or receive an extension of time.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.

Sec. 145.009. CRIMINAL PENALTY. (a) A municipal officer or a candidate for a municipal office filled by election commits an offense if the officer or candidate knowingly fails to file a financial statement as required by this chapter.

(b) An offense under this section is a Class B misdemeanor.

(c) It is a defense to prosecution under this section that the officer or candidate did not receive copies of the financial statement form required to be delivered to the officer or candidate by this chapter.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 223 (H.B. 1246), Sec. 3, eff. September 1, 2015.

Sec. 145.010. CIVIL PENALTY. (a) A person who determines that a person required to file a financial statement under this chapter has failed to do so may notify in writing the municipal attorney of the municipality.

(b) On receipt of a written notice under Subsection (a), the municipal attorney shall determine from any available evidence whether the person to whom the notice relates has failed to file a statement. On making that determination, the municipal attorney shall immediately mail by certified mail a notice of the determination to the person responsible for filing the statement.

(c) If the person responsible for filing the statement fails to file the statement before the 30th day after the date the person receives the notice under Subsection (b), the person is civilly liable to the municipality for an amount not to exceed $1,000.

(d) A penalty paid under this section shall be deposited to the

credit of the general fund of the municipality.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.01, eff. Sept. 1, 2003.

CHAPTER 146. LOCAL CONTROL OF MUNICIPAL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 146.001. APPLICABILITY. (a) This chapter applies only to a municipality with a population of 1.5 million or more.

(b) This chapter does not apply to:

(1) firefighters or police officers who are covered by Subchapter H, I, or J of Chapter 143 or by Chapter 174; or

(2) an employee association in which those employees participate.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.002. DEFINITIONS. In this chapter:

(1) "Covered employee" means an employee of a municipality, other than a department head or a firefighter or police officer who is covered by Subchapter H, I, or J of Chapter 143 or by Chapter 174.

(2) "Employee association" means an organization in which municipal employees participate and that exists for the purpose, wholly or partly, of dealing with one or more employers, whether public or private, concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work affecting public employees and whose members pay dues by means of an automatic payroll deduction.

(3) "Public employer" means any municipality or agency, board, commission, or political subdivision controlled by a municipality that is required to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of public employees. The term may include, under appropriate circumstances, a mayor, manager, administrator of a municipality, municipal governing body, director of personnel, personnel board, or one or more other officials regardless of the name by which they are designated.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND RECOGNITION. (a) A municipality may not be denied local control over the wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other state-mandated personnel issues. A public employer may enter into a mutual agreement governing these issues with an employee association recognized under this chapter as the sole and exclusive bargaining agent for all covered employees that does not advocate the illegal right to strike by municipal employees. The applicable statutes, local ordinances, and civil service rules govern a term or condition of employment on which the public employer and the association do not agree.

(b) An agreement under this chapter must be written.

(c) This chapter does not require the public employer and the recognized employee association to meet and confer or reach an agreement on any issue.

(d) This chapter does not authorize an agreement regarding pension or pension-related matters governed by Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), or a successor statute.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 16.002, eff. September 1, 2011.

Sec. 146.004. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from an employee association a petition signed by the majority of all covered employees that requests recognition of the association as the sole and exclusive bargaining agent for all the covered employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and find that a public employer may meet and confer

under this chapter without conducting an election by the voters in the municipality under Section 146.006;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 146.006 regarding whether a public employer may meet and confer under this chapter; or

(3) order a certification election under Section 146.005 to determine whether the association represents a majority of the covered employees.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the covered employees, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and find that a public employer may meet and confer under this chapter without conducting an election by the voters in the municipality under Section 146.006; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 146.006 regarding whether a public employer may meet and confer under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.005. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 146.004(a)(3) to determine whether an employee association represents a majority of the covered employees shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) The association is liable for the expenses of the certification election, except that if two or more associations

seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the employees eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of the election.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 146.004 may order an election to determine whether a public employer may meet and confer under this chapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal employees as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this chapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 146.004 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.007. CHANGE OR MODIFICATION OF RECOGNITION. (a) The municipal employees may modify or change the recognition of the employee association granted under this chapter by filing with the governing body of the municipality a petition signed by a majority of all covered employees.

(b) The governing body of the municipality may:

(1) recognize the change or modification as provided by the petition; or

(2) order a certification election in accordance with Section 146.005 regarding whether to do so.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.008. STRIKES PROHIBITED. (a) A municipal employee may not engage in a strike or organized work stoppage against this state or the municipality.

(b) A municipal employee who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the employee may have as a result of the employee's employment or prior employment with the municipality.

(c) This section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A public employer in a municipality that chooses to meet and confer under this chapter shall recognize an association that is recognized under Section 146.004 or 146.005 as the sole and exclusive bargaining agent for the covered employees.

(b) The public employer shall recognize the employee association until recognition of the association is withdrawn, in accordance with Section 146.007, by a majority of the municipal employees eligible to sign a petition for recognition.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff.

September 1, 2005.

Sec. 146.010. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) The public employer's chief executive officer or the chief executive officer's designee shall select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of municipal employees.

(b) An employee association may designate one or more persons to negotiate or bargain on the association's behalf.

(c) A municipality's bargaining unit is composed of all the covered employees.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.011. PROTECTED RIGHTS OF EMPLOYEES. A meet and confer agreement ratified under this chapter may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.012. OPEN RECORDS. (a) A proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ready to be ratified by the governing body of the municipality.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used in connection with the agreement.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.013. OPEN DELIBERATIONS. (a) Deliberations relating to a meet and confer agreement or proposed agreement under this chapter between representatives of the public employer and representatives of the employee association recognized under this chapter as the sole and exclusive bargaining agent for the covered employees must be open to the public and comply with state law.

(b) Subsection (a) may not be construed to prohibit the representatives of the public employer or the representatives of the recognized employee association from conducting private caucuses that are not open to the public during meet and confer negotiations.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.014. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) An agreement under this chapter is enforceable and binding on the public employer, the recognized employee association, and the employees covered by the meet and confer agreement only if:

(1) the governing body of the municipality ratified the agreement by a majority vote; and

(2) the recognized employee association ratified the agreement by conducting a secret ballot election at which the majority of the covered employees who are members of the association favored ratifying the agreement.

(b) A meet and confer agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. The court

may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.015. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS CHAPTER. (a) The governing body of a municipality that granted recognition of an employee association under Section 146.004 without conducting an election under Section 146.006 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association; and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of an employee association after conducting an election under Section 146.006 may order an election to determine whether a public employer may continue to meet and confer under this chapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 146.006.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal employees as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election

Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this chapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 146.004 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.016. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 45th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the recognized employee association, a petition calling for the repeal of the agreement signed by at least 10 percent of the qualified voters residing in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality or a special election called by the governing body for that purpose. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on _____ (date agreement was ratified) by the _____ (name of the governing body of the municipality) and the _____ (recognized municipal employee association) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

Sec. 146.017. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. A written meet and confer agreement ratified under this chapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by this state or a political subdivision or agent of this state, including a personnel board, civil service commission, or home-rule municipality, other than a statute, ordinance, executive order, civil service provision, or rule regarding pensions or pension-related matters.

Added by Acts 2005, 79th Leg., Ch. 1144 (H.B. 2866), Sec. 2, eff. September 1, 2005.

CHAPTER 147. LOCAL CONTROL OF FIREFIGHTER AND POLICE OFFICER EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES WITH POPULATION OF ONE MILLION OR MORE

Sec. 147.001. APPLICABILITY. This chapter applies only to a municipality with a population of one million or more, but does not apply to a municipality that has adopted Chapter 143 or 174.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.002. DEFINITIONS. In this chapter:

(1) "Firefighter" means a firefighter employed by the municipality who is covered by the municipality's fire pension plan and is classified by the municipality as nonexempt. The term does not include a firefighter with a rank that is above that of battalion chief or section chief.

(2) "Firefighter employee group" means an organization:

(A) in which, on or before September 1, 2007, firefighters of the municipality have participated and paid dues via automatic payroll deduction; and

(B) that exists for the purpose, in whole or in part, of dealing with the municipality concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment affecting firefighters.

(3) "Police officer" means a sworn police officer employed by the municipality who is covered by the municipality's police

pension plan and is classified by the municipality as nonexempt. The term does not include a police officer with a rank above that of captain, a civilian, or a municipal marshal.

(4) "Police officer employee group" means an organization:

(A) in which, on or before September 1, 2007, at least three percent of the police officers of the municipality have participated and paid dues via automatic payroll deduction; and

(B) that exists for the purpose, in whole or in part, of dealing with the municipality concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment affecting police officers.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1293 (H.B. 2307), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1415 (S.B. 1896), Sec. 5, eff. September 1, 2009.

Sec. 147.003. MEET AND CONFER TEAM; NEGOTIATIONS. (a) A meet and confer team is created under this section and consists of the following members:

(1) members representing the firefighter employee groups in the municipality, provided each group may appoint only one firefighter of the municipality to serve as a member of the team; and

(2) members representing the police officer employee groups in the municipality, provided each group may appoint only one police officer of the municipality to serve as a member of the team.

(b) The meet and confer team represents all firefighters and police officers in the municipality and shall negotiate with the municipality in an effort to reach an agreement on concerns shared by the firefighters and police officers regarding terms of employment, including concerns relating to wages, benefits, and other working conditions but excluding concerns relating to pensions. Only the meet and confer team created under this section may represent the firefighters or police officers of the municipality in the capacity described by this subsection, except that the team may be accompanied by legal counsel.

(c) Concerns relating to affirmative action, employment discrimination, hiring, and promotions may be discussed by individual firefighter and police officer associations independent of the meet and confer team.

(d) Expenses associated with the meet and confer team must be divided pro rata among each firefighter employee group and police officer employee group based on the number of sworn fire or police department members represented by each group.

(e) A municipality may designate one or more persons to meet and confer on the municipality's behalf.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.0031. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from the meet and confer team a petition signed by a majority of all police officers and a majority of all firefighters, excluding the head of the police department, the head of the fire department, and other excluded employees as described by Section 147.0035(b), that requests recognition of the meet and confer team as the sole and exclusive bargaining agent for all the police officers and firefighters employed by the municipality, excluding the head of the police department, the head of the fire department, and other excluded employees as described by Section 147.0035(b), the governing body shall:

(1) grant recognition of the meet and confer team as requested in the petition and determine by majority vote that the municipality may meet and confer under this chapter without conducting an election by the voters in the municipality under Section 147.0033;

(2) defer granting recognition of the meet and confer team and order an election by the voters in the municipality under Section 147.0033 regarding whether the municipality may meet and confer under this chapter; or

(3) order a certification election under Section 147.0032 to determine whether the employee groups in the meet and confer team represent a majority of the covered police officers and a majority of

the covered firefighters.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the employee groups that are part of the meet and confer team are certified to represent a majority of the covered police officers and a majority of the covered firefighters, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the meet and confer team as requested in the petition for recognition and determine by majority vote that the municipality may meet and confer under this chapter without conducting an election by the voters in the municipality under Section 147.0033; or

(2) defer granting recognition of the meet and confer team and order an election by the voters in the municipality under Section 147.0033 regarding whether a public employer may meet and confer under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.0032. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 147.0031(a)(3) to determine whether the employee groups in the meet and confer team represent a majority of the covered police officers and a majority of the covered firefighters shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) Each employee group in the meet and confer team is liable for the expenses of the certification election for the employees the group represents.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.0033. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 147.0031 may order an election to determine whether a public employer may meet and confer under this chapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the meet and confer team representing municipal police officers and firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this chapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, a meet and confer team may not submit a petition for recognition to the governing body of the municipality under Section 147.0031 before the second anniversary of the date of the election.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.0034. WITHDRAWAL OF RECOGNITION. (a) The police officers and firefighters may withdraw the recognition of the meet and confer team granted under this chapter by filing with the governing body of the municipality a petition signed by a majority of all covered police officers and a majority of all covered firefighters.

(b) The governing body of the municipality may:

(1) withdraw recognition as provided by the petition; or

(2) order a certification election in accordance with Section 147.0032 regarding whether to do so.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.0035. RECOGNITION OF MEET AND CONFER TEAM. (a) A public employer in a municipality that chooses to meet and confer under this chapter shall recognize the meet and confer team that is recognized under Section 147.0031 or 147.0033 as the sole and exclusive bargaining agent for the police officers and firefighters, excluding the head of the police department, head of the fire department, and the employees exempt under Subsection (b), in accordance with this chapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are employees appointed by the head of the police department or fire department in the classification immediately below that of department head or that are exempt by the mutual agreement of the meet and confer team and the municipality.

(c) The municipality shall recognize the meet and confer team until recognition of the meet and confer team is withdrawn in accordance with Section 147.0034 by a majority of the police officers and a majority of the firefighters who are eligible to sign a petition for recognition.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.004. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) A municipality may not be denied local control over the wages, salaries, rates of pay, hours of work, and other terms of employment, or other state-mandated personnel issues, if the municipality and the meet and confer team recognized under Section 147.0031 or 147.0033 as the sole and exclusive bargaining agent for the covered police officers and firefighters come to a mutual agreement on any of the terms of employment. If an agreement is not reached, the state laws, local ordinances, and civil service rules remain unaffected. All agreements shall be written.

Nothing in this chapter requires either party to meet and confer on any issue or reach an agreement.

(b) A municipality may meet and confer only if the meet and confer team does not advocate the illegal right to strike by public employees.

(c) Firefighters and police officers of a municipality may not engage in strikes against this state or a political subdivision of this state. A firefighter or police officer who participates in a strike forfeits all civil service rights, reemployment rights, and any other rights, benefits, or privileges the firefighter or police officer enjoys as a result of employment or prior employment.

(d) In this section, "strike" means failing to report for duty in concerted action with others, wilfully being absent from an assigned position, stopping work, abstaining from the full, faithful, and proper performance of the duties of employment, or interfering with the operation of a municipality. However, this section does not prohibit a firefighter or police officer from conferring with members of the municipal governing body about conditions, compensation, rights, privileges, or obligations of employment.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.005. PAYROLL DUES DEDUCTIONS. The municipality may not prevent automatic payroll deductions for dues paid to a firefighter employee group or police officer employee group.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.006. RECORDS AND MEETINGS. (a) An agreement made under this chapter is public information for purposes of Chapter 552, Government Code. The agreement and any document prepared and used by the municipality in connection with the agreement, except for materials created during a municipality's caucuses and notes that are otherwise privileged by law, are available to the public in accordance with Chapter 552, Government Code, only after the agreement is ratified by both parties.

(b) This section does not affect the application of Subchapter

C, Chapter 552, Government Code, to a document prepared and used by the municipality in connection with the agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.007. ENFORCEABILITY OF AGREEMENT. (a) A written agreement made under this chapter between a municipality and the meet and confer team is enforceable and binding on the municipality, the meet and confer team, firefighter employee groups, police officer employee groups, and the firefighters and police officers covered by the agreement if:

(1) the municipality's governing body ratified the agreement by a majority vote; and

(2) the agreement is ratified under Section 147.008.

(b) A state district court of the judicial district in which a majority of the population of the municipality is located has full authority and jurisdiction on the application of either party aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by any written agreement ratified as required by this chapter. The court may issue proper restraining orders, temporary and permanent injunctions, and any other writ, order, or process, including contempt orders, that are appropriate to enforcing any written agreement ratified as required by this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.008. ELECTION TO RATIFY AGREEMENT. (a) The meet and confer team shall call an election to ratify any agreement reached with the municipality if the agreement has been approved by five-sevenths of the members of the meet and confer team.

(b) All firefighters and police officers of the municipality are eligible to vote in the election.

(c) An agreement may be ratified under this section only if at least 65 percent of the votes cast in the election favor the ratification.

(d) A firefighter or police officer who is not a member of a

firefighter employee group or a police officer employee group may be assessed a fee for any cost associated with casting the firefighter's or police officer's vote.

(e) The meet and confer team shall establish procedures for the election by unanimous consensus.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.009. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS CHAPTER. (a) The governing body of a municipality that granted recognition of a meet and confer team under Section 147.0031 without conducting an election under Section 147.0033 may withdraw recognition of the meet and confer team by providing to the meet and confer team not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the meet and confer team; and

(2) any agreement between the governing body and the meet and confer team will not be renewed.

(b) The governing body of a municipality that granted recognition of a meet and confer team after conducting an election under Section 147.0033 may order an election to determine whether a public employer may continue to meet and confer under this chapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 147.0033.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the meet and confer team representing municipal police officers and firefighters as provided by state law, preserving the prohibition against strikes and organized work

stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this chapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, a meet and confer team may not submit a petition for recognition to the governing body of the municipality under Section 147.0031 before the second anniversary of the date of the election.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.010. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the firefighters and police officers under Section 147.008, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that the governing body is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on _____ (date agreement was ratified) by the _____ (name of the governing body of the municipality) and the police officers and firefighters employed by the City of _____ (name of municipality) concerning wages, salaries, rates of pay,

hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

Sec. 147.011. EFFECT ON EXISTING BENEFITS AND RIGHTS. (a) This chapter may not be construed to repeal any existing benefit provided by statute or ordinance concerning police officers' or firefighters' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments except as expressly provided in a ratified meet and confer agreement. This chapter is in addition to the benefits provided by existing statutes and ordinances.

(b) This chapter may not be construed to interfere with the free speech right, guaranteed by the First Amendment to the United States Constitution, of an individual firefighter or a police officer to endorse or dissent from any agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 835 (H.B. 866), Sec. 1, eff. September 1, 2007.

CHAPTER 150. MISCELLANEOUS PROVISIONS AFFECTING MUNICIPAL OFFICERS AND EMPLOYEES

SUBCHAPTER A. INVOLVEMENT OF FIRE FIGHTERS AND POLICE OFFICERS IN POLITICAL ACTIVITIES

Sec. 150.001. APPLICATION OF SUBCHAPTER TO CERTAIN MUNICIPALITIES WITH POPULATION OF 10,000 OR MORE. This subchapter applies only to a municipality with a population of 10,000 or more, but does not apply to a municipality in which Chapter 143 applies.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 34(a), eff. Aug. 28, 1989.

Sec. 150.002. POLITICAL ACTIVITIES. (a) While in uniform or on active duty, an employee of the fire or police department of the municipality may not engage in a political activity relating to a campaign for an elective office.

(b) For the purposes of this section, a person engages in a political activity if the person:

(1) makes a public political speech supporting or opposing a candidate;

(2) distributes a card or other political literature relating to the campaign of a candidate;

(3) wears a campaign button;

(4) circulates or signs a petition for a candidate;

(5) solicits votes for a candidate; or

(6) solicits campaign contributions for a candidate.

(c) While out of uniform and not on active duty, an employee of the fire or police department may engage in a political activity relating to a campaign for an elective office, including each activity listed by Subsection (b), except that the person may not solicit campaign contributions for a candidate other than from members of an employee organization to which that person belongs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 34(a), eff. Aug. 28, 1989.

Sec. 150.003. RESTRICTION PROHIBITED. The municipality may not restrict the right of an employee of the fire or police department to engage in a political activity permitted by this subchapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 34(a), eff. Aug. 28, 1989.

SUBCHAPTER B. RESIDENCY REQUIREMENTS

Sec. 150.021. RESIDENCY REQUIREMENTS FOR MUNICIPAL EMPLOYEES. (a) A municipality may not require residency within the municipal limits as a condition of employment with the municipality. A municipality may require residency within the United States as a condition of employment.

(b) The prohibition under Subsection (a) does not apply to residency requirements for:

(1) candidates for or holders of a municipal office, including a position on the governing body of the municipality; or

(2) municipal department heads appointed by the mayor or governing body of the municipality.

(c) The governing body of a municipality may prescribe reasonable standards with respect to the time within which municipal

employees who reside outside the municipal limits must respond to a civil emergency. The standards may not be imposed retroactively on any person in the employ of the municipality at the time the standards are adopted.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 35(a), eff. Aug. 28, 1989.

SUBCHAPTER C. EMPLOYEES AS CANDIDATES FOR OFFICE

Sec. 150.041. PROHIBITED MUNICIPAL ACTIONS. (a) In this section, "candidate" has the meaning assigned by Section 251.001(1), Election Code.

(b) A municipality may not prohibit a municipal employee from becoming a candidate for public office.

(c) A municipality may not take disciplinary action against a municipal employee, including terminating the employment of the employee, solely because the employee becomes a candidate for public office. However, the employee is still expected to fulfill all the duties and responsibilities associated with their municipal employment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1104 (H.B. 3739), Sec. 2, eff. June 14, 2013.

SUBTITLE B. COUNTY OFFICERS AND EMPLOYEES

CHAPTER 151. COUNTY EMPLOYMENT AUTHORITY

SUBCHAPTER A. GENERAL EMPLOYMENT AUTHORITY

Sec. 151.001. OFFICER APPLIES TO COMMISSIONERS COURT FOR AUTHORITY TO APPOINT EMPLOYEES. (a) A district, county, or precinct officer who requires the services of deputies, assistants, or clerks in the performance of the officer's duties shall apply to the commissioners court of the county in which the officer serves for the authority to appoint the employees. If the county has a population of more than 190,000, the officer shall apply for the authority to appoint any other kinds of employees.

(b) The application must be sworn and must state:

(1) the number of employees required;

(2) the title of the positions to be filled; and

(3) the amounts to be paid the employees.

(c) If the application is made in a county with a population of

more than 190,000, it must also describe the duties to be performed by the employees.

(d) The application must be accompanied by a statement of the probable receipts from fees, commissions, and compensation to be collected by the office during the fiscal year and the probable disbursements, including salaries and expenses, of the office.

(e) This section does not apply to a district attorney or criminal district attorney in a county with a population of more than 190,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 151.002. COMMISSIONERS COURT ADOPTS ORDER AUTHORIZING APPOINTMENT OF EMPLOYEES. After the receipt of an application under this subchapter, the commissioners court by order shall determine the number of employees that may be appointed and shall authorize their appointment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 151.003. OFFICERS MAKE APPOINTMENTS. After the entry of the commissioners court's order, the officer applying for the employees may appoint them.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 151.004. COMMISSIONERS COURT MAY NOT INFLUENCE APPOINTMENT. The commissioners court or a member of the court may not attempt to influence the appointment of any person to an employee position authorized by the court under this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 151.901. EMPLOYMENT OF SECRETARIAL PERSONNEL. The commissioners court of a county may enter an order to employ and provide compensation for secretarial personnel for a district,

county, or precinct officer if the court determines that the financial condition of the county and the staff needs of the officer justify doing so.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 151.903. PERSONNEL AND PAYROLL RECORDS IN COUNTY WITH POPULATION OF 500,000 OR MORE. (a) In a county with a population of 500,000 or more, the officer employing a person shall, in addition to other requirements of law, file a personnel record about the person if the person is paid in whole or in part from funds of the county or of a flood control district located entirely in the county and the person is employed as:

(1) a deputy, an assistant, or any other employee of the county, or of the flood control district, who works under the commissioners court or its appointee; or

(2) a deputy or an assistant appointed under Subchapter A by a county or district officer.

(b) The personnel record shall be filed when the person is employed and must contain the following information: date of employment, rate of compensation, nature of employment, business or personal history, education, race, sex, age, place and date of birth, previous experience, and any other information essential to the keeping of proper personnel records.

(c) Each county officer or department head under whom the persons described by Subsection (a) are employed shall file a signed and sworn payroll at the close of the month, or more often if authorized or required by law. The payroll must state the name of each employee and show the employee's dates and hours of work, rate of compensation, and amount due for the current pay period. In the case of engineers and employees in the field engaged in road, flood control, or construction work, a signed report must accompany the payroll stating the nature, dates, and location of the work performed and containing any other information that may be needed for statistical or accounting purposes.

(d) The county auditor shall prescribe the forms and systems, including a system of personnel and equipment records, necessary to carry out this section. The county auditor may enforce any rules adopted under this section. If a person fails to file records or

furnish essential information as required under this section, the county auditor or the county treasurer may withhold the payment of salaries until the records are filed or information is furnished as required. In addition, the county auditor may assemble statistics and make recommendations that may be included in the county auditor's annual report required by law.

(e) A form adopted under this section is subject to the approval of the county auditor.

(f) In a county with a chief personnel officer, the commissioners court may designate the chief personnel officer or the county auditor to approve personnel forms.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 328, Sec. 1, eff. May 26, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 934 (H.B. 3439), Sec. 6, eff. September 1, 2007.

CHAPTER 152. AMOUNT OF COMPENSATION, EXPENSES, AND ALLOWANCES OF COUNTY OFFICERS AND EMPLOYEES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 152.001. FUNDS FROM WHICH AMOUNTS ARE PAID. Unless otherwise provided by law, the compensation, expenses, and allowances set under this code for a district, county, or precinct officer or employee may be paid from the general fund of the county in which the officer or employee serves or from any other funds that are available for that purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.002. SALARY DONATION TO COUNTY. The county may accept from an elected county or precinct officer a gift or donation of all or part of the salary paid by the county to the officer. The county treasurer shall deposit a gift or donation accepted under this section in the general fund of the county.

Added by Acts 1989, 71st Leg., ch. 1259, Sec. 1, eff. June 18, 1989.

SUBCHAPTER B. AMOUNT OF COMPENSATION, EXPENSES, AND ALLOWANCES GENERALLY APPLICABLE

Sec. 152.011. AMOUNT SET BY COMMISSIONERS COURT. The commissioners court of a county shall set the amount of the compensation, office and travel expenses, and all other allowances for county and precinct officers and employees who are paid wholly from county funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.012. MINIMUM AMOUNT OF SALARY. The commissioners court may not set the salary of an officer or employee at an amount less than the amount of the salary in effect on January 1, 1972. The court may not set the salary of a justice of the peace at an amount less than the amount of the salary in effect on May 25, 1973.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.013. PROCEDURE FOR SETTING AMOUNTS FOR ELECTED OFFICERS. (a) Each year the commissioners court shall set the salary, expenses, and other allowances of elected county or precinct officers. The commissioners court shall set the items at a regular meeting of the court during the regular budget hearing and adoption proceedings.

(b) Before the 10th day before the date of the meeting, the commissioners court must publish in a newspaper of general circulation in the county a notice of:

(1) any salaries, expenses, or allowances that are proposed to be increased; and

(2) the amount of the proposed increases.

(c) Before filing the annual budget with the county clerk, the commissioners court shall give written notice to each elected county and precinct officer of the officer's salary and personal expenses to be included in the budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.014. SALARY GRIEVANCE COMMITTEE. (a) In each county

there is a salary grievance committee composed of the county judge and:

(1) the sheriff, county tax assessor-collector, county treasurer, county clerk, district clerk, county attorney or criminal district attorney, and the number of public members necessary to provide nine voting members; or

(2) nine public members, if the commissioners court votes to have nine public members.

(b) The county judge is chairman of the committee, but is not entitled to vote.

(c) Public members must be residents of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 326, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 131, Sec. 1, eff. Jan. 1, 2004.

Sec. 152.015. SELECTION AND TERM OF PUBLIC MEMBERS ON GRIEVANCE COMMITTEE. (a) The public members of the salary grievance committee shall be selected as provided by Subsection (b) or (b-1) at a meeting of the commissioners court at any time during the year, but not later than the 15th day after the date a request for a hearing is received under Section 152.016(a). If a request for a public hearing is not received, the commissioners court is not required to select public members.

(b) Except as provided by Subsection (b-1), before the meeting required by Subsection (a), the county clerk shall place on a separate slip the name of each person who served on a grand jury in the county during the preceding calendar year. At the meeting the slips shall be folded, placed in an appropriate container, and mixed. The county judge shall draw at random a number of slips equal to the number of public members needed for the committee and shall announce the names on the slips. At the meeting the county judge may repeat this process and make a list of alternates.

(b-1) As an alternative to the process prescribed by Subsection (b), the commissioners court may direct the county clerk to use a computer to generate a randomized list of the names of all persons who served on a grand jury in the county during the preceding calendar year. At the meeting required by Subsection (a), the commissioners court shall:

(1) adopt the randomized list;

(2) enter the list into the minutes of the meeting; and

(3) select, in the order of the list, the necessary number of public members and alternates.

(b-2) A person whose name is selected under this section becomes a member of the committee or an alternate on submitting written acceptance of the selection to the clerk. If a person refuses or is unable to serve on the committee, a replacement shall be appointed from the list of alternates. If the list of alternates is exhausted or does not exist, a replacement shall be selected from the remaining names not already selected, in the same manner as the replaced member, at the next regular or called commissioners court meeting. This process shall be repeated until the required number of public members have accepted the selection.

(c) A public member serves until the later of:

(1) the end of the fiscal year in which the public member is appointed; or

(2) the time the committee takes a final vote on the last of the grievances for which the committee held a public hearing.

(d) A vacancy in a public member position shall be filled for the unexpired part of the term by appointment from the list of alternates. If the list of alternates is exhausted or does not exist, a replacement shall be selected from the remaining names not already selected, in the same manner as the vacating member, at a meeting of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 326, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 131, Sec. 2, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 1021, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 212 (H.B. 840), Sec. 1, eff. September 1, 2021.

Sec. 152.016. FUNCTIONS OF GRIEVANCE COMMITTEE IN RELATION TO ELECTED OFFICERS. (a) An elected county or precinct officer who is aggrieved by the setting of the officer's salary or personal expenses may request a hearing before the salary grievance committee before the approval of the county's annual budget. The request must:

(1) be in writing;

(2) be delivered to the committee chairman within five days after the date the officer receives notice of the salary or personal expenses; and

(3) state the desired change in salary or personal expenses.

(b) The committee shall hold a public hearing not later than the later of the 10th day after:

(1) the date the request is received; or

(2) the date the commissioners court selects the public members of the committee.

(b-1) The chairman shall announce the time and place of the hearing.

(c) If, after the hearing, six or more of the members vote to recommend an increase in the officer's salary or personal expenses, the committee shall submit its recommendation to the commissioners court in writing. If six to eight members vote to recommend the increase, the commissioners court shall consider the recommendation at its next meeting. If nine members vote to recommend the increase and sign the recommendation, the commissioners court shall include the increase in the budget before the budget is filed and the increase takes effect in the next budget year.

(d) The committee's authority is limited to the consideration of increases in the salaries or personal expenses of county and precinct officers. The committee may not set policy of the county or add new items to a proposed county budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 326, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 131, Sec. 3, eff. Jan. 1, 2004.

Sec. 152.0165. EXHAUSTION OF REMEDIES BEFORE FILING SUIT REGARDING GRIEVANCE. (a) An elected county or precinct officer may not file suit regarding the officer's salary or personal expenses unless a hearing has been requested and held under Section 152.016.

(b) This section does not affect a defense, immunity, or jurisdictional bar available to a county or a county official or employee that is sued by a county or precinct officer based on the officer's salary, office and travel expenses, or other allowances.

Added by Acts 2003, 78th Leg., ch. 439, Sec. 1, eff. Sept. 1, 2003.

Sec. 152.017. EXCEPTIONS. This subchapter does not apply to:

(1) a judge of a court of record;

(2) a presiding judge of a commissioners court in a county with a population of 3.3 million or more;

(3) a district attorney paid wholly by state funds or the district attorney's assistants, investigators, or other employees;

(4) a county auditor, county purchasing agent, or the auditor's or purchasing agent's assistants or other employees; or

(5) a person employed under Section 76.004, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 89, eff. Sept. 1, 1991. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 70, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.76, eff. January 1, 2017.

Sec. 152.018. FORMER PROCEDURES NOT AFFECTED. This subchapter does not affect a lawful procedure or delegation of authority established before January 1, 1972, for setting the salary of a county or precinct employee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. AMOUNT OF COMPENSATION AND EXPENSES OF COUNTY AUDITOR AND ASSISTANTS

Sec. 152.031. COUNTY AUDITOR'S SALARY. (a) At a hearing held in accordance with Section 152.905, the district judges appointing the county auditor shall set, by a majority vote, the auditor's annual salary as compensation for services and the auditor's travel expenses and other allowances. The action of the district judges must be taken by order and must be recorded as prescribed by Section 152.905 and in the minutes of the district court.

(b) The district clerk shall certify the order to the

commissioners court of the county for its observance. The commissioners court shall cause the order to be recorded in its minutes.

(c) The salary shall be paid to the county auditor by monthly payments or by any other distribution at the option of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 11(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1169, Sec. 2, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 874, Sec. 1, eff. June 16, 1991.

Sec. 152.032. LIMITATIONS ON COUNTY AUDITOR'S COMPENSATION AND ALLOWANCES. (a) Except as provided by Subsections (b), (d), and (e), the amount of the compensation and allowances of a county auditor may not exceed the amount of the compensation and allowances received from all sources by the highest paid elected county officer, other than a judge of a statutory county court, whose salary and allowances are set by the commissioners court.

(b) This subsection applies only to a county that employs an arena venue project manager hired as of March 7, 2001, and that has a population of less than 2.1 million in which a municipality with a population of more than one million is located. The amount of the compensation and allowances of a county auditor in a county subject to this subsection may not exceed the amount of the compensation and allowances received from all sources by the county budget officer. If the county hires a county budget officer at a salary lower than the salary of the previous county budget officer, the county auditor's salary may not be reduced on that basis.

(c) A county auditor who was in office on August 31, 1987, is entitled to be paid an annual salary not less than the annual salary the auditor was being paid on that date.

(d) The amount of the compensation and allowances of a county auditor in a county subject to this subsection may be set in an amount that exceeds the limit established by Subsection (a) if the compensation and allowances are approved by the commissioners court of the county. This subsection applies only to:

(1) a county with a population of 120,000 or more, excluding a county subject to Subsection (b);

(2) a county with a population of more than 1,000 and less

than 23,000 that borders the Gulf of Mexico;

(3) a county with a population of more than 11,000 and less than 11,350; and

(4) a county that:

(A) borders a county with a population of more than one million; and

(B) has a population of more than 44,500 and less than 46,500.

(e) This subsection applies only to a county with a population of more than 1.2 million that uses an automated system to enhance internal controls of county finances through the use of automated edit checks of its automated purchasing system and its comprehensive automated payroll system. The amount of the compensation and allowances of a county auditor in a county governed by this subsection may exceed the limit imposed by Subsection (a) if the compensation and allowances are approved by the commissioners court. If a county is governed by this subsection and Subsection (b), the amount of compensation and allowances received by the county auditor may not exceed the limit imposed by Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 11(c), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 665, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 581, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1225, Sec. 2, eff. July 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(64), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.002(11), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 401 (S.B. 833), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 430 (S.B. 1630), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1260 (H.B. 2917), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.004, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 623 (H.B. 1230), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 71, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 213 (S.B. 871), Sec. 1, eff. May 29, 2015.

Acts 2017, 85th Leg., R.S., Ch. 649 (S.B. 1780), Sec. 1, eff. June 12, 2017.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 134, eff. September 1, 2023.

Sec. 152.034. SALARIES OF ASSISTANTS TO COUNTY AUDITOR. The salaries of assistants to the county auditor are set in the manner prescribed by Section 84.021.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.035. REIMBURSEMENT FOR MILEAGE EXPENSES. (a) The commissioners court of a county may reimburse the county auditor for expenses incurred in traveling to and from the county seat in the auditor's personal automobile to perform official duties and to attend conferences and seminars relating to the performance of official duties. However, the commissioners court may not reimburse the auditor for expenses incurred in traveling between the auditor's personal residence and county office or for expenses incurred in any other travel of a personal nature.

(b) The commissioners court of a county with a population of 3.3 million or more may reimburse an assistant of a county auditor for the assistant's expenses that are the same kind as those for which the county auditor may be reimbursed under Subsection (a).

(c) The commissioners court by order shall set the reimbursement at a reasonable rate.

(d) Reimbursement shall be paid monthly on submission of a sworn expense report by the person seeking the reimbursement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 66, eff. Sept. 1, 2001.

SUBCHAPTER D. WITHHOLDING COMPENSATION OF OFFICER WHO ELECTS NOT TO BE PAID

Sec. 152.051. DEFINITION. In this subchapter, "county payroll officer" means the county auditor or other appropriate county officer who issues paychecks to county or precinct personnel.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1259, Sec. 2, eff. June 18, 1989.

Sec. 152.052. DECISION TO REDUCE COMPENSATION OR NOT TO BE PAID. (a) Within five days after the date an elected county or precinct officer takes office, the officer shall file an affidavit with the county payroll officer stating that the officer elects not to be paid for the officer's services if, during the person's campaign for election to the county or precinct office, the person publicly advocated the abolition of the office. The affidavit must include a statement by the officer describing the method by which the officer intends to seek to obtain the abolition of the office for which the officer was elected and the date by which it is proposed to be accomplished.

(b) An elected county or precinct officer may, at any time, reduce the amount of compensation set for that office by filing with the county payroll officer an affidavit stating that the officer elects to reduce the amount of compensation paid for the officer's service to a specified amount. The reduction is effective on the date the affidavit is filed, and the county payroll officer shall issue any subsequent paychecks for the officer accordingly.

(c) If an officer covered by Subsection (a) or any other elected county or precinct officer files an affidavit with the county payroll officer stating that the officer elects not to be paid for the officer's services, the county payroll officer may not issue a paycheck to the officer.

(d) After an affidavit under Subsection (a) of this section is filed, the county payroll officer shall take measures to stop payment of a paycheck that was issued to the officer before the affidavit was filed and that has not been presented for payment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1259, Sec. 3, eff. June 18, 1989.

Sec. 152.053. RECORD OF NONPAYMENT. The county payroll officer

shall make an entry in the payroll records of the county to show each pay period for which the officer is not paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.054. RECOVERY OF PAYROLL TAXES. The county payroll officer shall seek to recover for the county any payroll taxes paid on the officer's compensation that is not paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. SPECIAL PROVISIONS APPLYING TO SHERIFF'S DEPARTMENT

Sec. 152.071. CLASSIFICATION OF POSITIONS; SALARY SCHEDULE. (a) In a county with a population of more than 75,000, the county government shall classify all positions in its sheriff's department and shall specify the duties and prescribe the salary for each classification.

(a-1) A county government in a county that has a population of more than 7,500, is located on an international boundary, and contains no incorporated territory of a municipality may classify all positions in its sheriff's department and may specify the duties and prescribe the salary for each classification.

(b) A member of the sheriff's department who is required to perform the duties of a particular classification is entitled to be paid the salary prescribed for that position during the time the member performs those duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1225, Sec. 3, eff. July 1, 2003.

Sec. 152.072. PETITION TO INCREASE SALARIES. (a) The qualified voters of a county with a population of more than 25,000 may petition the commissioners court of the county to increase the minimum salary of each member of the sheriff's department.

(a-1) The qualified voters of a county that has a population of more than 7,500, is located on an international boundary, and contains no incorporated territory of a municipality may petition the commissioners court of the county to increase the minimum salary of

each member of the sheriff's department.

(b) A petition under this section must:

(1) state the amount of the proposed minimum salary for each rank, pay grade, or classification;

(2) state the effective date of the proposed salary increase;

(3) designate five qualified voters to act as a committee of petitioners authorized to negotiate with the commissioners court under Subsection (g); and

(4) be signed by a number of qualified voters equal to at least 25 percent of the number of voters who voted in the most recent countywide election for county officers.

(c) When a petition is filed under this section, the commissioners court shall:

(1) adopt the proposed minimum salary stated in the petition;

(2) offer an alternative minimum salary proposal under Subsection (g); or

(3) call an election on the proposed minimum salary as provided by this section.

(d) If the commissioners court chooses to call an election, the only issue that may be submitted regarding the salaries of members of the sheriff's department is whether the proposed minimum salary should be adopted. The election shall be held on the first authorized uniform election date under Chapter 41, Election Code:

(1) that occurs after the 65th day after the date the petition was filed; and

(2) on which an election is scheduled to be held throughout the county for other purposes.

(e) The ballot for the election shall be printed to provide for voting for or against the proposition: "Adoption of the proposed minimum salaries of _____ for members of the Sheriff's Department at an annual cost of _____, which may or may not cause an increase in the county ad valorem property tax." The proposed salary for each rank, pay grade, or classification as stated in the petition and the total annual cost of the increases must be inserted in the blank spaces.

(f) If a majority of the votes cast at the election favor the adoption of the proposed minimum salary, the minimum salary shall take effect on or before the date specified in the petition as the

effective date. If the date on which the results of the official canvass of the election returns are announced is after the date specified in the petition as the effective date, the minimum salary shall take effect beginning with the first full pay period that begins after the date on which the election results are canvassed.

(g) If the commissioners court chooses to offer an alternative minimum salary proposal, the commissioners court shall confer with the committee of petitioners designated in the petition and offer the alternative salary proposal. If the committee accepts the alternative salary proposal, the commissioners court is not required to call an election.

(h) When an election has been held or an alternative salary proposal has been accepted under this section, a petition for another election under this section may not be filed until one year has elapsed after the date the election was held or the alternative salary proposal was accepted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 808, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 272, Sec. 1, eff. May 26, 1997; Acts 2003, 78th Leg., ch. 1225, Sec. 4, eff. July 1, 2003.

Sec. 152.073. PENALTY. (a) A person who is a county official and who is in charge of the sheriff's department or is responsible for setting the compensation provided by Sections 152.071 and 152.072 commits an offense if the person violates Section 152.071 or 152.072.

(b) An offense under this section is punishable by a fine of not less than $10 or more than $100.

(c) Each day on which the county official causes or permits a violation of this section to occur is a separate offense.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 808, Sec. 2, eff. Aug. 28, 1995.

Sec. 152.074. LONGEVITY PAY FOR COMMISSIONED DEPUTIES AND COUNTY JAILERS. (a) In a county with a population of 150,000 or more, the commissioners court of a county shall provide to each commissioned deputy of the sheriff's department longevity pay in an amount not less than $5 a month for each year of service in the

department, up to and including 25 years. Each commissioned deputy is entitled to the longevity pay in addition to the deputy's regular compensation.

(a-1) In a county with a population of 150,000 or more, the commissioners court may provide to each county jailer of the sheriff's department longevity pay in the amount provided to a commissioned deputy under Subsection (a).

(a-2) A county government in a county that has a population of more than 7,500, is located on an international boundary, and contains no incorporated territory of a municipality may provide longevity pay for each commissioned deputy of the sheriff's department of not less than $5 a month for each year of service in the department, up to and including 25 years. If longevity pay is provided for, each commissioned deputy is entitled to the longevity pay in addition to the deputy's regular compensation.

(b) The commissioners court shall begin providing the longevity pay at the beginning of the first fiscal year after the date this section becomes applicable to the county.

(c) In this section, "county jailer" has the meaning assigned by Section 1701.001, Occupations Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 505, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1225, Sec. 5, eff. July. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(65), eff. September 1, 2005.

Sec. 152.075. COMPENSATION FOR RESERVE DEPUTY SHERIFFS. (a) The commissioners court of a county may compensate a reserve deputy sheriff as provided by law for the compensation of a deputy sheriff.

(b) The commissioners court may reimburse a reserve deputy sheriff for reasonable and necessary expenses incurred in the performance of official duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 152.901. TRAVEL EXPENSES FOR CERTAIN COUNTY AGENTS AND

BOARD MEMBERS. (a) The commissioners court of a county may authorize the payment of reasonable travel expenses incurred by a person who:

(1) is an agent of the county, or is a board or committee member appointed by the commissioners court; and

(2) is not a county or precinct officer or employee whose travel expenses may be set under Section 152.011.

(b) The travel expenses must be incurred by the person while performing county business authorized by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.902. COMPENSATION FOR RESERVE DEPUTY CONSTABLES. (a) The commissioners court of a county may compensate a reserve deputy constable as provided by law for the compensation of a deputy constable.

(b) The commissioners court may reimburse a reserve deputy constable for reasonable and necessary expenses incurred in the performance of official duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.903. COMPENSATION FOR INTERPRETERS EMPLOYED BY DISTRICT COURTS. (a) Except as provided by Subsection (d), the commissioners court of a county may set the compensation of interpreters employed by the district courts in the county.

(b) The salary of an interpreter shall be paid on warrants issued by the district court or the clerk of the court in favor of the interpreter.

(c) The salary of an interpreter appointed under Subchapter B, Chapter 21, Civil Practice and Remedies Code, is payable in equal monthly payments or by any other distribution at the option of the county.

(d) This section does not apply to interpreters for deaf or deaf-mute persons appointed under Subchapter A, Chapter 21, Civil Practice and Remedies Code, or Article 38.31, Code of Criminal Procedure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1991, 72nd Leg., ch. 874, Sec. 2, eff. June 16, 1991.

Sec. 152.904. COMPENSATION OF COUNTY JUDGE IN CERTAIN COUNTIES. (a) The county judge of Gregg County is entitled to receive an annual salary set by the commissioners court at an amount that does not exceed 90 percent of the total annual salary paid to any district judge in the county.

(b) The county judge of El Paso County is entitled to receive an annual salary in an amount not to exceed 90 percent of the total annual salary, including supplements, paid to any district judge in the county.

(c) The commissioners court of a county with a population of 315,000 to 351,000 shall set the annual salary of the county judge at an amount equal to or greater than 90 percent of the salary, including supplements, of any district judge in Galveston County. However, the salary may not be set at an amount less than the salary paid the county judge on May 2, 1962.

(d) The county judge of Webb County is entitled to receive a salary set by the commissioners court at at least $20,000, but not more than the salary, including any supplements, paid to a district judge in the county. The salary shall be paid out of the county treasury by order of the commissioners court and shall be paid monthly in equal installments or by any other distribution at the option of the county.

(e) The Commissioners Court of Harris County shall set the annual salary of the county judge at an amount that is not less than $1,000 more than the total annual salary received by county criminal court at law judges in the county. The salary shall be paid in equal biweekly installments.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.11(d), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 597, Sec. 90, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 874, Sec. 3, eff. June 16, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 67, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 72, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 194 (S.B. 560), Sec. 5, eff.

September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 135, eff. September 1, 2023.

Sec. 152.905. PROCEDURES FOR SETTING COMPENSATION BY DISTRICT JUDGES. (a) This section applies only to the compensation of the county auditor, assistant auditors, and court reporters.

(b) Before setting the amount of annual compensation of the county auditor, assistant auditors, and court reporters, the district judge or judges shall hold a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard.

(c) Not earlier than the 30th or later than the 10th day before the date of the hearing, notice of the time, place, and subject of the hearing must be published in a newspaper of general circulation in the county.

(d) At the hearing, the district judge or judges shall set the amount of compensation of the county auditor, assistant auditors, and court reporters considered at the hearing. The vote must be recorded, transcribed, and maintained as a public record.

Added by Acts 1989, 71st Leg., ch. 1169, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 2003, 78th Leg., ch. 1225, Sec. 1, eff. July 1, 2003.

Sec. 152.906. LONGEVITY PAY FOR DEPUTY CONSTABLES. In a county with a population of 190,000 or more, the commissioners court may provide for each county employee or classification of county employee, including, but not limited to, deputy constables, longevity pay, in addition to regular compensation, of $5 a month, or any other amount determined by the commissioners court, for each year of service in the county, up to and including 30 years.

Added by Acts 1991, 72nd Leg., ch. 773, Sec. 1, eff. Aug. 26, 1991.

Sec. 152.907. CONTINUING EDUCATION EXPENSES FOR COUNTY AND PRECINCT OFFICERS. The commissioners court of a county may authorize payment of reasonable continuing education expenses incurred by a county or precinct officer if the expenses are related to the officer's official duties, including expenses incurred by the officer

between the general election at which the officer is elected and the beginning of the officer's term of office.

Added by Acts 1999, 76th Leg., ch. 980, Sec. 1, eff. June 18, 1999.

Sec. 152.908. COMPENSATION PARITY FOR POLICE OFFICERS IN CERTAIN COUNTIES. (a) In this section, "police officer" has the meaning assigned by Section 174.003.

(b) This section applies only to a county with a population of 3.3 million or more.

(c) If the commissioners court of a county increases the compensation or employment benefits for a class of police officers, the commissioners court must increase by the same amount the compensation or employment benefits to all police officers that are within that class and who receive their compensation and employment benefits primarily through county funding.

(d) The commissioners court of a county:

(1) shall provide funding to each law enforcement agency, office, or department of the county necessary to provide the increase in compensation or employment benefits required by Subsection (c); and

(2) may not reduce a component of the budget of a law enforcement agency, office, or department as a result of the increase in compensation or employment benefits required by Subsection (c).

Added by Acts 2025, 89th Leg., R.S., Ch. 350 (H.B. 4205), Sec. 3, eff. September 1, 2025.

CHAPTER 153. COMPENSATION OF COUNTY OFFICERS ON FEE BASIS

Sec. 153.001. COUNTY TREASURER'S COMMISSION FOR RECEIVING OR PAYING OUT MONEY. (a) In a county in which the county treasurer is compensated on a fee basis, the treasurer is entitled to the following commissions for receiving and paying out money for the county:

(1) for money other than school funds, a percentage set by order of the commissioners court not to exceed 2-1/2 percent of the money received and a percentage set by order of the court not to exceed 2-1/2 percent of the money paid out; and

(2) for school funds, one-half percent of the money

received and one-half percent of the money paid out.

(b) A commission earned under Subsection (a)(2) is payable from the available school fund of the county.

(c) A county treasurer may not receive a commission under this section for money received from the treasurer's predecessor or money paid to the treasurer's successor. A county treasurer may not receive a commission under Subsection (a)(2) for transferring money.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 153.002. FEE FOR KEEPING LEDGER AND MAKING STATEMENTS. In a county that does not have the office of county auditor and in which the county treasurer is compensated on a fee basis, the treasurer is entitled to annual compensation for keeping the county finance ledger and for making the statements required by Section 114.021. The compensation is in an amount that equals $5 for each $1,000 tax assessed and due to the county, but the amount may not be less than $100 or more than $250. Compensation under this section is paid on the order of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 207 (H.B. 398), Sec. 3, eff. May 25, 2007.

Sec. 153.003. MONTHLY STATEMENT OF EXPENSES OF OFFICERS. (a) At the end of each month, a county officer who is compensated on a fee basis shall prepare an itemized and sworn statement of the actual and necessary expenses incurred by the officer in the conduct of the office. The statement shall be made a part of the fees statement required by Section 114.041 and must contain:

(1) the name of the case, if any, in connection with which an expense is incurred; and

(2) the name and position of, and the amount of the salary actually paid to, each assistant or deputy of the officer.

(b) For the purposes of this section, actual and necessary expenses include expenses for:

(1) travel, stationery, stamps, and telephone service; and

(2) premiums on officials' bonds, including surety bonds

for deputies, and premiums on fire, burglary, theft, and robbery insurance to protect public funds.

(c) The salaries paid to the officer's assistants, deputies, and clerks and the incurred expenses shall be paid from fees earned by the officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 154. COMPENSATION OF DISTRICT, COUNTY, AND PRECINCT OFFICERS ON SALARY BASIS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 154.001. DEFINITION. In this chapter, "precinct officer" means a justice of the peace or a constable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.002. SALARY PAID IN LIEU OF FEES AND COMMISSIONS. A district, county, or precinct officer who is paid on a salary basis receives the salary instead of all fees, commissions, and other compensation the officer would otherwise be authorized to keep, except as otherwise provided by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.003. COLLECTION AND DISPOSITION OF FEES AND COMMISSIONS OF SALARIED OFFICER. A district, county, or precinct officer who is paid an annual salary shall charge and collect in the manner authorized by law all fees, commissions, and other compensation permitted for official services performed by the officer. The officer shall dispose of the collected money as provided by Subchapter B, Chapter 113.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.004. STATE AND COUNTY PROHIBITED FROM PAYING FEES OR COMMISSIONS TO SALARIED OFFICER. (a) The state may not pay a district officer a fee or commission for the performance of a service

by the officer.

(b) If a county officer is paid an annual salary, the state or any county may not pay a fee or commission to the officer for the performance of a service by the officer.

(c) The state or any county may not pay a fee or commission to a precinct officer for the performance of a service by the officer.

(d) The prohibitions established by this section do not affect:

(1) fees and commissions the county tax assessor-collector is authorized by law to collect;

(2) the payment of costs in a civil case or eminent domain proceeding by the state; or

(3) the payment of fees and commissions by the state or a county for services performed by county officers relating to the acquisition of rights-of-way for public roads and highways.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.005. FEES AND COMMISSIONS CERTAIN SALARIED OFFICERS MAY RECEIVE IN ADDITION TO SALARY. (a) A justice of the peace may receive, in addition to a salary, all fees, commissions, or payments for performing marriage ceremonies, for acting as registrar for the Bureau of Vital Statistics, and for acting as ex officio notary public.

(b) A county judge may receive, in addition to a salary, all fees, commissions, or payments for performing marriage ceremonies.

(c) A sheriff or constable may receive, in addition to a salary, any reward for the apprehension of a criminal fugitive from justice or for the recovery of stolen property.

(d) A constable may receive, in addition to Subsection (c), all fees, commissions, or payments for delivering notices required by Section 24.005, Property Code, relating to eviction actions. Notices may only be delivered when not in conflict with the official duties and responsibilities of the constable. A constable delivering said notices must not be wearing upon his or her person a uniform or any insignia which would usually be associated with the position of constable nor may the constable use a county vehicle or county equipment while delivering said notices. For purposes of collecting fees for serving said notices, a constable is considered a private process server.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 884, Sec. 2, eff. Jan. 1, 1998.

Sec. 154.006. INSUFFICIENT SALARY FUND SUPPLEMENTED BY TRANSFER FROM GENERAL FUND. If a salary fund created under this chapter does not contain enough money to pay the claims against it, the commissioners court shall transfer to the salary fund from the general fund of the county an amount of money necessary to pay those claims.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.007. USE OF GENERAL FUND INSTEAD OF SALARY FUND. (a) At its first regular meeting in the first month of each fiscal year, the commissioners court may direct, by order entered in its minutes, that all money that otherwise would be deposited in a salary fund created under this chapter shall be deposited in the general fund of the county.

(b) In a county in which the order is adopted, a reference in this chapter to a salary fund means the general fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.008. LEGISLATIVE APPROPRIATION FOR OFFICERS COMPENSATED ON SALARY BASIS. (a) The comptroller of public accounts shall apportion and pay to counties in which county officers are compensated on a salary basis the money the legislature appropriates for the year for that purpose.

(b) The comptroller shall apportion the money on the basis of population. The annual apportionment may not exceed 14 cents a person, except that in a county that had a population of less than 60,000 according to the 1930 federal census and in which the ad valorem valuation for all purposes according to the most recently approved tax roll exceeds the valuation for 1930 by 50 percent or more, the annual apportionment may not exceed 25 cents a person.

(c) The comptroller shall make the payment each year in four installments on the first day of January, April, July, and October. However, if a commissioners court orders that county officers who

were previously compensated by fees are to be compensated by salary, the comptroller shall pay the first installment to that county within 15 days after the date the comptroller receives notice of the commissioners court's order.

(d) The comptroller shall mail or electronically transmit a warrant for the payment to the county treasurer. The warrant must be:

(1) drawn on the state treasury;

(2) payable to the county treasurer; and

(3) registered by the comptroller.

(e) The payment shall be deposited in the salary fund of the county. If a county has more than one salary fund, the commissioners court shall apportion the payment among the salary funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 13.02, eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 934 (H.B. 3439), Sec. 7, eff. September 1, 2007.

Sec. 154.009. EFFECT OF FAILURE TO COLLECT FEE OR COMMISSION. (a) If, following a hearing, the commissioners court finds that a district, county, or precinct officer has, through neglect, failed to collect a fee or commission that the officer is required by law to collect, the commissioners court shall deduct the amount of the fee or commission from the officer's salary. Before the 10th day before the date of the hearing, the commissioners court shall provide the officer with notice of the time and place of the hearing and an itemized statement of the uncollected fees to be charged against the officer's salary.

(b) This section does not apply to a district, county, or precinct officer if the county treasurer or county auditor is required to collect the fee or commission under Section 154.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 217, Sec. 6, eff. May 23, 1995.

Sec. 154.010. AUTHORITY TO PURCHASE LIABILITY INSURANCE FOR COUNTY OFFICERS AND EMPLOYEES. (a) A warrant may be drawn on either

the general fund or salary fund to pay any insurance premium or self-insurance pool contribution for the purpose of providing insurance or other coverage for the liabilities of an official or employee of the county, a district attorney who has all or part of the county within the district attorney's jurisdiction, or an official of any special purpose district located, in whole or in part, in the county arising from the performance of an official duty or a duty of employment as authorized by Section 157.041 or Chapter 119 or by Chapter 791 or 2259, Government Code.

(b) Subdivision (a) is applicable regardless of whether the commissioners court adopts an order in accordance with Section 154.007, Local Government Code.

Added by Acts 1991, 72nd Leg., ch. 351, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 561, Sec. 6, eff. Aug. 30, 1993; Acts 2001, 77th Leg., ch. 1420, Sec. 8.286, eff. Sept. 1, 2001.

Sec. 154.011. COLLECTIONS BY COUNTY TREASURER OR COUNTY AUDITOR. (a) If a district, county, or precinct officer consents, the commissioners court of a county with a population of 2.8 million or more may designate the county treasurer, if the county treasurer consents, or the county auditor, if the county auditor consents, to collect a fee, commission, judgment, fine, forfeiture, or penalty on behalf of the district, county, or precinct officer who is required by law to collect the fee, commission, judgment, fine, forfeiture, or penalty.

(b) The official designated shall report the collection of a fee, commission, judgment, fine, forfeiture, or penalty to the district, county, or precinct officer.

(c) The official designated is solely liable for collecting the fee, commission, judgment, fine, forfeiture, or penalty.

(d) The official designated may discharge liability under this section in the same manner provided for a district, county, or precinct officer.

(e) In this section, "county treasurer" includes a person performing the duties of the county treasurer and "county auditor" includes a person performing the duties of the county auditor.

Added by Acts 1995, 74th Leg., ch. 217, Sec. 7, eff. May 23, 1995.

SUBCHAPTER B. PROVISIONS APPLICABLE IN COUNTY WITH POPULATION OF 190,000 OR LESS

Sec. 154.021. COUNTIES COVERED BY SUBCHAPTER. This subchapter applies to a county with a population of 190,000 or less, except as otherwise provided by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.022. OPTION TO PAY COMPENSATION ON FEE BASIS OR SALARY BASIS IN COUNTY WITH POPULATION OF LESS THAN 20,000. (a) In a county with a population of less than 20,000, the commissioners court shall determine, by order entered in the record at its first regular meeting in the first month of each fiscal year, whether county officers are to be compensated for the fiscal year by an annual salary or by fees earned from the performance of official duties. This subsection does not apply to a county surveyor, registrar of vital statistics, or notary public or to a county officer required to be compensated on a salary basis.

(b) Before the expiration of the first month of the fiscal year, the county clerk shall deliver to the comptroller of public accounts a certified copy of the commissioners court's order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.023. SALARY FUND. (a) A salary fund shall be created in the county to be known as the "officers' salary fund of _____ County, Texas." The following items shall be paid from the fund:

(1) salaries of district, county, and precinct officers;

(2) salaries of the officers' deputies, assistants, and clerks; and

(3) the authorized expenses of the offices of those officers.

(b) The salary fund shall be:

(1) deposited in the county depository;

(2) kept separate from other county funds; and

(3) protected to the same extent as other county funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.0235. PROCEDURES REGARDING PAYMENT OF OFFICE EXPENSES AND EMPLOYEE SALARIES. (a) A district, county, or precinct officer may issue a warrant against the salary fund to pay authorized expenses of the office or the salary of an employee whose salary may be paid from the fund.

(b) A payment may not be made from the salary fund to an employee for a service performed before the person has taken the constitutional oath of office, if applicable, and the person's authorized appointment and oath, if any, have been filed for record with the county clerk and the county auditor, if the county has a county auditor.

Added by Acts 2019, 86th Leg., R.S., Ch. 330 (S.B. 354), Sec. 2, eff. May 31, 2019.

Sec. 154.024. MONTHLY REPORT OF EXPENSES OF OFFICERS. At the end of each month, an officer who is compensated on a salary basis shall prepare a report of the officer's expenses. The report must:

(1) contain an itemized and sworn statement of all approved expenses incurred by the officer and charged to the officer's county;

(2) contain the name of the case, if any, in connection with which an expense is incurred; and

(3) be accompanied by invoices covering any purchases and requisitions issued by the officer and included in the report.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.025. DISBURSEMENTS TO PERSONS WITH OUTSTANDING DEBT PROHIBITED. (a) In this section, "debt" includes delinquent taxes, fines, fees, and indebtedness arising from written agreements with the county. The term includes delinquent property taxes whether reduced to judgment or not.

(b) If notice of indebtedness has been filed with the county auditor and county treasurer evidencing the indebtedness of a person to the state, the county, or a salary fund, a warrant may not be drawn on a county fund in favor of a person, or an agent or assignee of a person, until:

(1) the county treasurer, or the county auditor in a county without a county treasurer, notifies in writing the person owing the

debt that the debt is outstanding; and

(2) the debt is paid.

(c) A county may apply any funds the county owes a person to the outstanding balance of debt for which notice is made under Subsection (b)(1), if the notice includes a statement that the amount owed by the county to the person may be applied to reduce the outstanding debt.

(d) A county may include a notice in its forms, bonds, or other agreements stating that the county may offset payments to a person in accordance with this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 54, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 139, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 120 (S.B. 1106), Sec. 3, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 414 (S.B. 382), Sec. 1, eff. June 14, 2013.

Sec. 154.026. TRANSFER OF SALARY FUND SURPLUS TO GENERAL FUND. After the end of a fiscal year, the commissioners court by order may transfer to the general fund of the county any money remaining in a salary fund if all claims against the salary fund incurred for the fiscal year have been paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. PROVISIONS APPLICABLE IN COUNTY WITH POPULATION OF MORE THAN 190,000

Sec. 154.041. COUNTIES COVERED BY SUBCHAPTER. This subchapter applies to a county with a population of more than 190,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.042. SALARY FUND. (a) A salary fund shall be created in the county for each district, county, and precinct officer to be known as the "(officer's title) salary fund of (name of county)

County, Texas." The purpose of the fund is to pay:

(1) the salary of the officer;

(2) the salaries of the officer's deputies, assistants, clerks, stenographers, and investigators; and

(3) authorized and approved expenses of the office of the officer.

(b) The salary fund shall be:

(1) deposited in the county depository;

(2) kept separate from other county funds; and

(3) protected to the same extent and draw the same interest as other county funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.043. PROCEDURES REGARDING PAYMENT OF EMPLOYEE SALARIES. (a) A district, county, or precinct officer may issue a warrant against the salary fund to pay the salary of an employee whose salary may be paid from the fund.

(b) A payment may not be made from the salary fund to an employee for a service performed before the person has taken the constitutional oath of office, if applicable, and the person's authorized appointment and oath, if any, have been filed for record with the county clerk and the county auditor, if the county has a county auditor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.044. MONTHLY REPORT OF FEES, COMMISSIONS, AND EXPENSES OF OFFICERS. (a) On or before the fifth day of each month, a district, county, or precinct officer shall file with the county auditor a report, on a form prescribed by the county auditor, that contains:

(1) a detailed and itemized statement of all fees, commissions, and other compensation that the officer collected during the preceding month;

(2) an itemized and sworn statement of all expense claims paid during the preceding month; and

(3) the amount paid during the preceding month to each employee of the officer and the name and position of the employee.

(b) An officer who serves only part of the fiscal year shall file a report and make final settlement for the part of the fiscal year that the officer served. The officer is entitled to the part of the officer's compensation proportionate to the part of the year served.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 154.045. DISBURSEMENTS TO PERSON WITH OUTSTANDING DEBT PROHIBITED. (a) In this section, "debt" includes delinquent taxes, fines, fees, and indebtedness arising from written agreements with the county. The term includes delinquent property taxes whether reduced to judgment or not.

(b) If a notice of indebtedness has been filed with the county auditor or county treasurer evidencing the indebtedness of a person to the state, the county, or a salary fund, a warrant may not be drawn on a county fund in favor of the person, or an agent or assignee of the person, until:

(1) the county treasurer, or the county auditor in a county without a county treasurer, notifies in writing the person owing the debt that the debt is outstanding; and

(2) the debt is paid.

(c) A county may apply any funds the county owes a person to the outstanding balance of debt for which notice is made under Subsection (b)(1), if the notice includes a statement that the amount owed by the county to the person may be applied to reduce the outstanding debt.

(d) A county may include a notice in its forms, bonds, or other agreements stating that the county may offset payments to a person in accordance with this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1155, Sec. 1, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 139, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 120 (S.B. 1106), Sec. 4, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 414 (S.B. 382), Sec. 2, eff. June 14, 2013.

Sec. 154.046. TRANSFER OF SALARY FUND SURPLUS TO GENERAL FUND. After the end of a fiscal year, the commissioners court by order shall transfer to the general fund of the county, by warrant issued by the county clerk, any money remaining in a salary fund when all claims against the fund incurred for the fiscal year have been paid and the officer's accounts have been audited and approved by the county auditor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 155. DEDUCTIONS FROM COMPENSATION OF COUNTY EMPLOYEES

SUBCHAPTER A. AUTHORIZED DEDUCTIONS FOR COUNTIES

Sec. 155.001. DEDUCTIONS AUTHORIZED IN COUNTIES; PURPOSES. (a) The commissioners court, on the request of a county employee, may authorize a payroll deduction to be made from the employee's wages or salary for:

(1) payment to a credit union;

(2) payment of membership dues in a labor union or a bona fide employees association;

(3) payment of fees for parking in a county-owned facility;

(4) payment to a charitable organization; or

(5) payment relating to an item not listed in this subsection if the commissioners court determines that the payment serves a public purpose.

(b) In this section, "charitable organization" has the meaning assigned by Section 659.131, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 433, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 817, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 13.04, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 185, Sec. 1, eff. May 18, 2001; Acts 2003, 78th Leg., ch. 1123, Sec. 1, eff. June 20, 2003.

Sec. 155.002. EMPLOYEE'S REQUEST. (a) A request for a payroll deduction must:

(1) be in writing;

(2) be submitted to the county auditor; and

(3) state the amount to be deducted and the entity to which

the amount is to be transferred.

(b) A request remains in effect until the county auditor receives a written notice of revocation signed by the employee.

(c) A payroll deduction may not exceed the amount stated in the request.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 155.003. PAYMENT OF ADMINISTRATIVE COSTS. (a) Public funds may not be used to pay the administrative costs of making a deduction, except for a deduction relating to the payment of parking fees in a county-owned facility.

(b) The credit union, labor union, or employees association for whose benefit a deduction is made shall pay any administrative costs for making the deduction. The commissioners court shall determine the amount of the administrative costs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 155.004. OTHER STATUTE NOT AFFECTED. This chapter does not affect Chapter 617, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(16), eff. Sept. 1, 1995.

SUBCHAPTER B. CERTAIN DEDUCTIONS MADE BY COUNTY TREASURER OR OTHER OFFICER

Sec. 155.021. DEDUCTIONS ENUMERATED. The county treasurer or, if another officer is specified by law, that other officer shall make the deductions from, or take other similar actions with regard to, the compensation of county employees as required:

(1) for employee contributions for coverage under the federal social security program in accordance with Chapter 606, Government Code;

(2) for the purchase of annuities or for contributions to investments for employees in accordance with Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes);

(3) for the purchase of United States savings bonds for employees in accordance with Chapter 608, Government Code;

(4) for employee participation in a deferred compensation plan in accordance with Chapter 609, Government Code; or

(5) for employee contributions to a retirement system in accordance with Section 845.403, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 179, Sec. 2(j), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 268, Sec. 39, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 16.003, eff. September 1, 2011.

SUBCHAPTER C. CAFETERIA PLAN SALARY REDUCTIONS

Sec. 155.041. DEFINITION. In this subchapter, "county employee" means a person who receives compensation for service performed, other than as an independent contractor, for a county, for a precinct or other unit of a county, or for a county officer acting in an official capacity.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 36, eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 51, Sec. 1, eff. May 7, 2001.

Sec. 155.042. BENEFIT PROGRAM. The commissioners court of a county by order or resolution may establish a program to provide benefits that qualify for a cafeteria plan or a bona fide compensation reduction arrangement under the federal Internal Revenue Code of 1986 and regulations adopted under that code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 36, eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 51, Sec. 1, eff. May 7, 2001.

Sec. 155.043. SALARY REDUCTION AGREEMENTS. (a) If the commissioners court establishes a program under this subchapter, the court shall authorize county employees to enter into voluntary agreements with the county to reduce the periodic compensation paid the employees by the county by amounts to be used to finance benefit

options provided under the program. An authorization under this section must be made available to all employees of the county.

(b) Amounts by which a county employee's compensation is reduced under an agreement under this section are excluded from the computation of contributions and other payments governed by federal law to the extent authorized by federal law, including withholding payments for federal income taxes and contributions to the federal old age and survivors insurance program, but are not excluded in the computation of contributions to and benefits from the Texas County and District Retirement System and other retirement programs governed by state law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 36, eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 51, Sec. 1, eff. May 7, 2001.

Sec. 155.044. RULES. The commissioners court may adopt rules, consistent with this subchapter and federal requirements, for participation in and administration of the program authorized by this subchapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 36, eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 51, Sec. 1, eff. May 7, 2001.

SUBCHAPTER D. INSURANCE DEDUCTIONS IN COUNTIES

Sec. 155.061. DEDUCTIONS AUTHORIZED. (a) The commissioners court of a county, on the request of a county official or employee, may authorize a payroll deduction to be made from the official's or employee's wages or salary for the payment of premiums on an individual insurance policy, including a health, accident, dental, accidental death and dismemberment, disability, cancer or other catastrophic illness or disease, hospital, surgical, medical expense, or whole or term life insurance policy, that insures the official or employee or the dependents of the official or employee.

(b) If the commissioners court authorized a payroll deduction under this section, the commissioners court may not pay any part of the premiums on the policy.

Added by Acts 1991, 72nd Leg., ch. 302, Sec. 1, eff. Aug. 26, 1991.

Sec. 155.062. REQUEST FOR DEDUCTION. (a) A request for an insurance deduction must:

(1) be submitted to the county officer authorized by the commissioners court to administer payroll deductions; and

(2) state the amount to be deducted and the entity to which the amount is to be transferred.

(b) A request remains in effect until the county officer authorized to administer the insurance deductions receives a notice of change.

(c) An insurance deduction may not exceed the amount stated in the request plus the amount of any change in applicable insurance premiums imposed after the date the request for deduction is submitted.

(d) If the amount of an applicable insurance premium is changed after the date the request for deduction is submitted, the county officer authorized to administer insurance deductions shall provide written notice of the change to each affected employee. The notice must be provided before the change takes effect.

Added by Acts 1991, 72nd Leg., ch. 302, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 96, Sec. 1, eff. Sept. 1, 1997.

Sec. 155.063. ADMINISTRATION OF DEDUCTIONS. (a) The commissioners court may authorize:

(1) a county officer to administer the insurance deductions and to transfer an insurance deduction to the appropriate entity; and

(2) the county officer to charge the appropriate entity the costs of administering an insurance deduction.

(b) The commissioners court may require an entity that will receive a transferred deduction under this section to submit to the commissioners court information required by the court to determine the stability and financial solvency of the insurance company and of the availability of benefits under the insurance policy.

(c) The commissioners court may require the submission of other information the commissioners court determines necessary to justify an insurance deduction.

(d) The payment by the county of administrative costs of making an insurance deduction may not be considered as evidence of a

contract of the insured's employment with the county.

Added by Acts 1991, 72nd Leg., ch. 302, Sec. 1, eff. Aug. 26, 1991.

CHAPTER 156. ELECTRONIC FUNDS TRANSFER OF COMPENSATION AND REIMBURSEMENT OF COUNTY OFFICERS AND EMPLOYEES

Sec. 156.001. TRANSFER SYSTEM AUTHORIZED. The county treasurer may establish and operate an electronic funds transfer system to make any authorized transfer from the county treasury.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 343, Sec. 2, eff. May 29, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 934 (H.B. 3439), Sec. 8, eff. September 1, 2007.

Sec. 156.003. ADMINISTRATION OF SYSTEM. The county auditor or, if the county does not have a county auditor, the chief financial officer of the county, with the approval of the commissioners court, shall establish the procedures for administering the system and may use the services of financial institutions, automated clearinghouses, and the federal government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 156.004. TRANSFER TO MULTIPLE PAYEES. A single transfer may contain payments to multiple payees without the necessity of issuing individual warrants for each payee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 156.005. NO ADDITIONAL RIGHTS CREATED. The use of an electronic funds transfer means of payment does not create any rights that would not have been created if an individual warrant had been used as a means of payment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 157. ASSISTANCE, BENEFITS, AND WORKING CONDITIONS OF COUNTY OFFICERS AND EMPLOYEES

SUBCHAPTER A. MEDICAL CARE, HOSPITALIZATION, AND INSURANCE

Sec. 157.001. HOSPITALIZATION INSURANCE. The commissioners court of a county may provide hospitalization insurance to a county official, deputy, assistant, or other county employee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 157.002. MEDICAL CARE, HOSPITALIZATION, AND INSURANCE IN COUNTIES. (a) The commissioners court by rule may provide for medical care and hospitalization and may provide for compensation, accident, hospital, and disability insurance for the following persons if their salaries are paid from the funds of the county or funds of a flood control district located entirely in the county, or funds of a hospital district described by Section 281.0475, Health and Safety Code, located entirely in the county, or if they are employees of another governmental entity for which the county is obligated to provide benefits:

(1) deputies, assistants, and other employees of the county, or of the flood control district, or of the hospital district, who work under the commissioners court or its appointees;

(2) county and district officers and their deputies and assistants appointed under Subchapter A, Chapter 151;

(3) employees appointed under Section 76.004(b), Government Code;

(4) any retired person formerly holding any status listed above; and

(5) the dependents of any person listed above.

(b) The commissioners court may contract with a county-operated hospital or a hospital operated jointly by a municipality and county to provide medical care and hospitalization under this section. The commissioners court may, if circumstances warrant, provide for medical care and hospitalization in a private hospital.

(c) A rule adopted under this section relating to a person's medical care, hospitalization, or insurance coverage must be included in the person's employment contract.

(d) A rule adopted under this section is subject to the approval of the county auditor.

(e) Before adopting a rule under this section, the commissioners court must give notice of a hearing about the proposed adoption. The notice must be published in a newspaper that is published in the county. The publication must be made at least once a week for two consecutive weeks. The first notice must appear before the 15th day before the date of the hearing. The notice must provide a brief summary of the rule as well as the time and day of the hearing. On adoption, the rule must be entered in the minutes of the hearing and it takes effect on the date set out in the rule. At the hearing, an employee or taxpayer of the county is entitled to appear and protest the adoption of a rule.

(f) A county providing coverage under this section shall reinsure its potential liability or purchase stop-loss coverage for any amount of potential liability that is in excess of 125 percent of projected paid losses and may reinsure its potential liability or purchase stop-loss coverage for any amount of potential liability that is 125 percent or less of projected paid losses. A county must reinsure the liability or purchase stop-loss coverage from an insurance company admitted to do business in this state that has a certificate of authority from the State Board of Insurance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(h), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 872, Sec. 1, 2, eff. June 14, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 22, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.77, eff. January 1, 2017.

Sec. 157.003. HOSPITAL AND INSURANCE FUND. (a) In a county that adopts rules under Section 157.002, the commissioners court may require persons participating in the health plan to contribute toward the payment of the plan. The commissioners court may establish a fund to be known as the "Hospital and Insurance Fund--County Employees" to pay for the medical care or hospitalization or the insurance.

(b) A person who elects to participate in the health plan must authorize contributions to the fund by salary deduction. The authorization must be in writing and must be given at the time of the person's employment or on the effective date of the rules. The county and any participating flood control district or hospital district shall also contribute to the fund. A person who does not contribute to the plan may not receive hospitalization or insurance benefits.

(c) The fund may be used only for the purposes stated in Subsection (a). Employees who are discharged or who end their employment voluntarily have no vested right to contributions made to the fund. The fund shall continue to be used for the benefit of the remaining employees.

(d) Claims shall be paid from the fund in the same manner as provided by law for the payment of other claims of the county or flood control district.

(e) If a plan established under this section is terminated by the commissioners court, the remaining funds shall be transferred to the county and to any participating flood control district in proportion to the total contributions made by them.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 23, eff. September 1, 2005.

Sec. 157.004. DISABILITY COMPENSATION IN COUNTIES OF 290,000 TO 500,000. (a) The commissioners court of a county with a population of 290,000 to 500,000 shall provide for the payment of a county employee who is made totally unfit to continue employment because of a physical injury occurring in the actual and active discharge of a duty. The payment may not cover more than six months of disability. The payment must be in the following amounts:

(1) full salary for each month, or part of a month, of total disability during the first three months of the disability; and

(2) one-half salary for each month, or part of a month, of total disability during the second three months of the disability.

(b) The commissioners court, before making an award for

disability under this section, shall conduct a hearing to determine the merits of the claim and may subpoena and examine witnesses to assist in the determination. The commissioners court may grant or refuse an award.

(c) The employee making a claim under this section may appeal a decision of the commissioners court within 10 days after the date of the decision. Appeal is by trial de novo before the court that has jurisdiction of the amount involved.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 157.005. SUBROGATION. (a) A county that has paid medical expenses, doctor bills, hospital bills, or salary for a sheriff, deputy sheriff, constable, deputy constable, or other county or precinct law enforcement official under Article III, Section 52e, of the Texas Constitution, as adopted in 1967, is subrogated to the law enforcement official's right of recovery for personal injuries caused by another to the extent of the payments made by the county.

(b) A county may not refuse to pay medical expenses, doctor bills, or hospital bills on the ground that the law enforcement official has a claim for damages for personal injury.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 157.006. PAYMENTS FOR CERTAIN HEALTH INSURANCE COVERAGE. (a) A hospital district created under Article IX of the Texas Constitution or a county may purchase and pay the premiums for a conversion policy or other health insurance coverage for a person who is diagnosed as having HIV or AIDS, or defined by Section 81.101, Health and Safety Code, or other terminal or chronic illness, who is unemployed, and whose income level is less than 200 percent of the federal poverty level, based on the federal Office of Management and Budget poverty index in effect at the time coverage is provided, even though that person may be eligible for benefits under Chapter 32, Human Resources Code, or a medical assistance program of the county or hospital district.

(b) Health insurance coverage for which premiums may be paid under this section includes coverage purchased from an insurance company authorized to do business in this state, a group hospital

services corporation operating under Chapter 842, Insurance Code, a health maintenance organization operating under Chapter 843, Insurance Code, or an insurance pool created by the federal or state government or a political subdivision of the state.

(c) The county or hospital district may provide for payment of premiums from unencumbered money available to it for that purpose.

(d) A county or hospital by order may adopt necessary rules, criteria, and plans and may enter into necessary contracts to carry out this section.

Added by Acts 1989, 71st Leg., ch. 1041, Sec. 6, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(10), eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.537, eff. Sept. 1, 2003.

Sec. 157.007. APPLICABILITY OF SUBCHAPTER. (a) A county that chooses to provide medical or related benefits may operate under this subchapter or Subchapter F.

(b) A county operating under this subchapter that previously created a fund under Section 157.102 may continue the fund or may terminate the fund and create a fund as provided by Section 157.003.

Added by Acts 2003, 78th Leg., ch. 630, Sec. 2, eff. Sept. 1, 2003.

Sec. 157.008. INSURANCE POOL OR INSURANCE COMPANY NOT CREATED. If a county provides for medical care and hospitalization or provides for compensation, accident, hospital, and disability insurance to persons listed under Section 157.002(a)(1), the county:

(1) has not created an insurance pool with a flood control district, hospital district, or other governmental entity, unless the county enters into a contract under Chapter 172; and

(2) is not an insurance company subject to the Insurance Code or to regulation by the Texas Department of Insurance as an insurance company.

Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 24, eff. September 1, 2005.

SUBCHAPTER B. HOURS OF WORK

Sec. 157.021. HOURS OF WORK OF COUNTY EMPLOYEES. (a) In a county with a population of 265,000 or more, the commissioners court may adopt and enforce uniform rules on the hours of work of department heads, assistants, deputies, and other employees whose compensation is set or approved by the court.

(b) The commissioners court of any county may adopt and enforce uniform rules on overtime and compensatory time for department heads, assistants, deputies, and other employees whose compensation is set or approved by the commissioners court. The rules may:

(1) prohibit unbudgeted overtime, except when the commissioners court or an elected county or district officer declares an emergency; and

(2) require that emergency overtime be reported to the county auditor and the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 713, Sec. 2, eff. Sept. 1, 1995. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 37 (S.B. 65), Sec. 1, eff. May 19, 2025.

Sec. 157.022. HOURS OF WORK OF PEACE OFFICERS IN COUNTIES OF MORE THAN ONE MILLION. (a) A peace officer employed by a county with a population of more than one million may not be required to work more hours during a calendar week than the number of hours in the normal work week of the majority of other county employees.

(b) A sheriff or constable may require a peace officer to work more hours than allowed by Subsection (a) if the sheriff or constable determines an emergency exists that requires the officer to work extra hours.

(c) A peace officer who elects to work extra hours during a calendar week shall be compensated on a basis consistent with overtime provisions of the county personnel policy.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 91, eff. Sept. 1, 1991.

SUBCHAPTER C. LIABILITY INSURANCE

Sec. 157.041. GENERAL LIABILITY INSURANCE. (a) The commissioners court of a county may obtain insurance or similar coverage from a governmental pool operating under Chapter 119 or a self-insurance fund or risk retention group operating under Chapter 2259, Government Code, for an official or employee of the county including county and precinct peace officers designated by the commissioners court, a district attorney who has all or part of the county within the district attorney's jurisdiction, or an official of any special purpose district located, in whole or in part, in the county against liability arising from the performance of official duties or duties of employment.

(b) Insurance provided under this section must be purchased from an insurance company authorized to do business in this state and must be on forms approved by the commissioner of insurance.

(c) The commissioner of insurance shall adopt rules and set rates to implement this section.

(d) Coverage obtained from a pool operating under Chapter 119 or a self-insurance fund or risk retention group operating under Chapter 2259, Government Code, is not insurance and, except as provided by Subsections (b) and (c), is not subject to regulation by the commissioner of insurance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 561, Sec. 7, eff. Aug. 30, 1993; Acts 2001, 77th Leg., ch. 1420, Sec. 8.287, eff. Sept. 1, 2001.

Sec. 157.042. MOTOR VEHICLE LIABILITY INSURANCE FOR PEACE OFFICERS IN CERTAIN COUNTIES. (a) A county that has a population of more than 1.3 million and in which a municipality with a population of more than one million is primarily located shall insure its sheriff, constables, and full-time deputies of those officers against liability to third persons arising from the operation or maintenance of:

(1) county-owned or county-leased motor vehicles; and

(2) privately owned motor vehicles to the extent used for the performance of county business or law enforcement duties.

(b) A county may satisfy the requirement of Subsection (a) by requiring that the person to be covered purchase an extended coverage endorsement to an individually owned liability insurance policy and

by reimbursing the person for the cost of the extended coverage endorsement. The extended coverage endorsement must be in an amount equal to or greater than that required by Subsection (d) and must extend coverage to include the operation of vehicles in the scope of the person's employment. The county may require a person insured in this manner to provide proof of coverage.

(c) A county may elect to comply with the requirements of this section by self-insuring in accordance with Section 601.124, Transportation Code.

(d) Liability coverage required under this section must be in amounts equal to or greater than the amounts required by Chapter 601, Transportation Code.

(e) In this section, "motor vehicle" means a vehicle for which motor vehicle insurance is written under Subchapter A, Chapter 5, Insurance Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.217, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 644, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 68, eff. Sept. 1, 2001.

Sec. 157.043. GENERAL LIABILITY INSURANCE FOR COUNTY OFFICIALS. (a) In this section, "county officer or employee" includes a county or precinct peace officer, the district attorney, or an officer of a special purpose district located in whole or in part in the county.

(b) The commissioners court of a county may obtain insurance or similar coverage from a governmental pool operating under Chapter 119 or a self-insurance fund or risk retention group operating under Chapter 2259, Government Code, for a county officer or employee, insuring the officer or employee from liability for losses arising from the performance of official duties by the officer or duties of employment by the employee, including losses resulting from errors or omissions of the officer or employee or from crime, dishonesty, or theft.

(c) An insurance policy purchased under Subsection (b) may be a blanket insurance policy covering some or all county officers or employees. The commissioners court may self-insure for part or all of any deductible required under a blanket insurance policy. A blanket insurance policy purchased under this subsection may be used

to satisfy any requirement for insurance required of a county officer by any law.

(d) This section is cumulative of other statutory, common law, or constitutional provisions.

Added by Acts 1999, 76th Leg., ch. 92, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.288, eff. Sept. 1, 2001.

SUBCHAPTER D. CHILD CARE SERVICES

Sec. 157.061. DEFINITIONS. In this subchapter:

(1) "Child care services" means the care, training, education, custody, treatment, and supervision of children for all or part of a day.

(2) "County juror" means a juror in a justice, county, or district court in a county.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 37(a), eff. Aug. 28, 1989.

Sec. 157.062. AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county with a population of 500,000 or more may establish a program by which the county provides child care services to benefit county employees, county jurors, and their children.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 37(a), eff. Aug. 28, 1989.

Sec. 157.063. ELIGIBLE CHILDREN. Any child of a county employee or county juror, including a stepchild, foster child, or other child in the possession of the employee or juror under a court order, is eligible to participate in the child care program subject to the limitations imposed under Section 157.065.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 37(a), eff. Aug. 28, 1989.

Sec. 157.064. SPACE FOR PROGRAM. The commissioners court may set aside space in an existing county facility or may acquire by

lease or purchase additional space for the child care program.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 37(a), eff. Aug. 28, 1989.

Sec. 157.065. SCOPE OF PROGRAM. (a) The commissioners court may determine its own guidelines about the scope of the child care program. The guidelines must include provisions relating to fees for participation in the program, ages of children who may participate, services to be available, times services are available, and related matters.

(b) The commissioners court shall appoint a board of county employees to review the program and guidelines and to make recommendations to the court about the program.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 37(a), eff. Aug. 28, 1989.

Sec. 157.066. STAFF. (a) The commissioners court may employ a child care administrator to supervise the administration of the program and, with the approval of the court, to employ the necessary staff to administer the program.

(b) Instead of exercising the authority under Subsection (a), the commissioners court may contract for the child care services.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 37(a), eff. Aug. 28, 1989.

Sec. 157.067. FEES. (a) The commissioners court may set fees to be charged for the child care services. A fee may be set at any amount not to exceed the actual cost of providing the service. If the amount of a fee is less than the cost of providing the service, the difference between the two amounts is considered to be part of the compensation of the county employee or county juror.

(b) Fees collected under this section shall be deposited in the general fund of the county.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 37(a), eff. Aug. 28, 1989.

SUBCHAPTER E. POOLING OF SICK LEAVE BY COUNTY EMPLOYEES

Sec. 157.071. DEFINITIONS. In this subchapter:

(1) "Administrator" means the person designated by the commissioners court of a county to administer the county's sick leave pool program.

(2) "Employee" means a district, county, or precinct employee with 12 or more months of continuous employment with the district, county, or precinct who is paid from the general fund of the county, from a special fund of the county, or from special grants paid through the county.

Added by Acts 1993, 73rd Leg., ch. 613, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 612, Sec. 1, eff. Sept. 1, 1997.

Sec. 157.072. AUTHORITY TO ESTABLISH PROGRAM FOR SICK LEAVE POOL. (a) The commissioners court of a county may establish a program within the county to allow an employee to voluntarily transfer sick leave time earned by the employee to a county sick leave pool.

(b) The commissioners court of a county with a population of 800,000 or more may allow an employee to voluntarily transfer vacation leave time earned by the employee to a county sick leave pool.

Added by Acts 1993, 73rd Leg., ch. 613, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 711, Sec. 1, eff. Sept. 1, 1995. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 216 (H.B. 180), Sec. 1, eff. June 4, 2021.

Sec. 157.073. ADMINISTRATION OF SICK LEAVE POOL PROGRAM. (a) The commissioners court may adopt rules and prescribe procedures and forms relating to the operation of the county sick leave pool program. The commissioners court by rule may require an employee to:

(1) enroll in the county sick leave pool as a condition for eligibility under Section 157.075(a); and

(2) transfer at least one day of accrued sick leave time or, if allowed under Section 157.072(b), accrued vacation leave time earned by the employee as a condition of enrollment.

(b) The commissioners court shall designate a person to

administer the county sick leave pool program.

(c) The commissioners court shall determine which injuries and illnesses are classified as catastrophic for purposes of this subchapter. The court shall provide to the administrator a written statement of that classification.

Added by Acts 1993, 73rd Leg., ch. 613, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 493, Sec. 1, eff. June 11, 2001.

Sec. 157.074. EMPLOYEE CONTRIBUTION TO SICK LEAVE POOL. (a) To contribute time to the county sick leave pool, an employee must submit an application to the administrator in the form prescribed by the commissioners court.

(b) On approval by the administrator, in a fiscal year the employee may transfer to the county sick leave pool not less than one day or more than five days of accrued sick leave time, or accrued vacation leave time in a county operating under Section 157.072(b), earned by the employee. The administrator shall credit the pool with the amount of time contributed by the employee and shall deduct the same amount of time from the amount to which the employee is entitled, as if the employee had used the time for personal purposes.

(c) An employee who is terminated or who resigns or retires may donate not more than 10 days of accrued sick leave time or, if allowed under Section 157.072(b), accrued vacation leave time earned by the employee to take effect immediately before the effective date of termination, resignation, or retirement.

Added by Acts 1993, 73rd Leg., ch. 613, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 711, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 612, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 493, Sec. 2, eff. June 11, 2001.

Sec. 157.075. EMPLOYEE WITHDRAWAL FROM SICK LEAVE POOL. (a) An employee is eligible to use time contributed to the county sick leave pool if:

(1) because of a catastrophic injury or illness, the employee has exhausted all the accrued paid leave and compensatory time to which the employee is otherwise entitled; and

(2) the employee is enrolled in the county sick leave pool,

if the commissioners court requires enrollment under Section 157.073(a).

(b) An eligible employee must apply to the administrator for permission to use time in the county sick leave pool. If the administrator determines that the employee is eligible, the administrator shall approve the transfer of time from the pool to the employee. The administrator shall credit the time to the employee, and the employee may use the time in the same manner as sick leave earned by the employee in the course of employment.

(c) An eligible employee may not use time in the county sick leave pool in an amount that exceeds the lesser of one-third of the total amount of time in the pool or 180 days. The administrator shall determine the exact amount that an eligible employee may use.

(d) An employee absent on sick leave assigned from the county sick leave pool is treated for all purposes as if the employee were absent on earned sick leave.

(e) The estate of a deceased employee is not entitled to payment for unused sick leave acquired by that employee from the county sick leave pool.

Added by Acts 1993, 73rd Leg., ch. 613, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 612, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 493, Sec. 3, eff. June 11, 2001; Acts 2001, 77th Leg., ch. 554, Sec. 1, eff. June 11, 2001.

SUBCHAPTER E-1. COUNTY EMPLOYEE FAMILY LEAVE POOL PROGRAM

Sec. 157.081. DEFINITIONS. In this subchapter:

(1) "Family leave pool" means a county employee family leave pool created under a program.

(2) "Pool administrator" means the individual responsible for administering a family leave pool.

(3) "Program" means a county employee family leave pool program established under this subchapter.

Added by Acts 2025, 89th Leg., R.S., Ch. 167 (H.B. 334), Sec. 1, eff. May 26, 2025.

Sec. 157.082. ESTABLISHMENT OF COUNTY EMPLOYEE FAMILY LEAVE POOL PROGRAM. (a) The commissioners court of a county by order may

establish a program to allow an employee of the county to voluntarily transfer sick or vacation leave time earned by the employee to a county employee family leave pool.

(b) A program established under this section must:

(1) create a county employee family leave pool; and

(2) at a minimum comply with the provisions of this subchapter.

(c) If a program is established for a county under this section, the county judge of the county shall:

(1) serve as the pool administrator of the family leave pool for the county; or

(2) appoint an individual to serve as the pool administrator of the family leave pool for the county.

Added by Acts 2025, 89th Leg., R.S., Ch. 167 (H.B. 334), Sec. 1, eff. May 26, 2025.

Sec. 157.083. CONTRIBUTION TO FAMILY LEAVE POOL. (a) A county employee may contribute to the family leave pool of the county that employs the employee one or more days of the employee's accrued sick or vacation leave.

(b) The pool administrator for a county shall credit the county's family leave pool with the amount of time contributed by a county employee and deduct a corresponding amount of time from the employee's earned sick or vacation leave as if the employee had used the time for personal purposes.

(c) A retiring county employee may designate the number of the retiring employee's accrued sick or vacation leave hours to be used for retirement credit and the number of the retiring employee's accrued sick or vacation leave hours to be donated on retirement to the family leave pool of the county that employs the retiring employee.

Added by Acts 2025, 89th Leg., R.S., Ch. 167 (H.B. 334), Sec. 1, eff. May 26, 2025.

Sec. 157.084. USE OF TIME IN POOL. (a) A county employee is eligible to use time contributed to the family leave pool of the county that employs the employee if the employee has exhausted the

employee's eligible compensatory, discretionary, sick, and vacation leave because of:

(1) the birth of a child;

(2) the placement of a foster child or adoption of a child under 18 years of age;

(3) the placement of any person 18 years of age or older requiring guardianship;

(4) a serious illness to an immediate family member or the employee, including a pandemic-related illness;

(5) an extenuating circumstance created by an ongoing pandemic, including providing essential care to a family member; or

(6) a previous donation of time to the pool.

(b) A county employee who applies to use time under Subsection (a) to care for another person must submit and be listed on the other person's birth certificate, birth facts, or adoption or foster paperwork for a child under 18 years of age, including being listed as the mother, father, adoptive parent, foster parent, or spouse of the child's mother, father, adoptive parent, or foster parent, or provide documentation that the employee is the guardian of a person who is 18 years of age or older and requiring guardianship.

Added by Acts 2025, 89th Leg., R.S., Ch. 167 (H.B. 334), Sec. 1, eff. May 26, 2025.

Sec. 157.085. WITHDRAWAL OF TIME FROM POOL. (a) A county employee may apply to the pool administrator for the county that employs the employee for permission to withdraw time from the county's family leave pool.

(b) A county employee who applies to withdraw time under this section because of a serious illness, including a pandemic-related illness, of the employee or an immediate family member of the employee and does not qualify for or has exhausted time available in the sick leave pool of the county that employs the employee, if applicable, must provide the county's pool administrator with a written statement from the licensed practitioner who is treating the employee or the employee's immediate family member.

(c) A county employee who applies to withdraw time under this section because of an extenuating circumstance created by an ongoing pandemic, including providing essential care to a family member, must

provide any applicable documentation, including an essential caregiver designation, proof of closure of a school or daycare, or other appropriate documentation to the pool administrator for the county that employs the employee.

(d) If a pool administrator determines a county employee is eligible to withdraw time under this section, the administrator shall:

(1) approve the transfer of time from the county's family leave pool to the employee; and

(2) credit the time to the employee.

Added by Acts 2025, 89th Leg., R.S., Ch. 167 (H.B. 334), Sec. 1, eff. May 26, 2025.

Sec. 157.086. LIMITATION ON WITHDRAWALS. (a) A county employee may not withdraw time from the family leave pool of the county that employs the employee in an amount that exceeds the lesser of:

(1) one-third of the total time in the pool; or

(2) 90 days.

(b) Subject to Subsection (a), the pool administrator for a county shall determine the amount of time that a county employee may withdraw from the county's family leave pool.

Added by Acts 2025, 89th Leg., R.S., Ch. 167 (H.B. 334), Sec. 1, eff. May 26, 2025.

Sec. 157.087. EQUAL TREATMENT. A county employee absent while using time withdrawn from the family leave pool of the county that employs the employee may use the time as sick leave earned by the employee. The employee shall be treated for all purposes as if the employee is absent on earned sick leave.

Added by Acts 2025, 89th Leg., R.S., Ch. 167 (H.B. 334), Sec. 1, eff. May 26, 2025.

Sec. 157.088. NO ENTITLEMENT TO ESTATE. The estate of a deceased county employee is not entitled to payment for unused time

withdrawn by the employee from the family leave pool of the county that employs the employee.

Added by Acts 2025, 89th Leg., R.S., Ch. 167 (H.B. 334), Sec. 1, eff. May 26, 2025.

SUBCHAPTER F. GROUP HEALTH AND RELATED BENEFITS

Sec. 157.101. GROUP HEALTH AND RELATED BENEFITS. (a) A commissioners court by rule, including through an intergovernmental risk pool organized under Chapter 172, may provide for group health and related benefits, including medical care, surgical care, hospitalization, and pharmaceutical, life, accident, disability, long-term care, vision, dental, mental health, and substance abuse benefits, for the following persons if their salaries are paid from the funds of the county or funds of a flood control district located entirely in the county, or funds of a hospital district described by Section 281.0475, Health and Safety Code, located entirely in the county, or if they are employees of another governmental entity for which the county is obligated to provide benefits:

(1) deputies, assistants, and other employees of the county, or of the flood control district, or of the hospital district, who work under the commissioners court or its appointees;

(2) county and district officers and their deputies and assistants appointed under Subchapter A, Chapter 151;

(3) employees of a community supervision and corrections department established under Chapter 76, Government Code;

(4) a retired person formerly holding a status listed in Subdivisions (1)-(3); and

(5) the dependents of a person listed in Subdivisions (1)-(4).

(b) The commissioners court may provide the benefits under Subsection (a) through insurance, self-insurance, or a contract with a county-operated hospital, a hospital operated jointly by a municipality and county, or a private hospital.

(c) A rule adopted under this section relating to a person's group health or related benefits coverage must be included in the person's employment contract or otherwise communicated in writing to the person.

(d) A rule adopted under this section may be subject to the

approval of the county auditor.

(e) Before adopting a rule under this section, the commissioners court must provide notice of a hearing about the proposed adoption in accordance with Chapter 551, Government Code. At the hearing, an employee or taxpayer of the county is entitled to appear and protest the adoption of a rule.

(f) A county providing coverage under this section may reinsure its potential liability or purchase stop-loss coverage for any amount of potential liability that is in excess of projected paid losses. A county that reinsures its potential liability or purchases stop-loss coverage for any amount of potential liability must do so from an insurance company admitted to do business in this state that holds a certificate of authority from the Texas Department of Insurance or an intergovernmental risk pool organized under Chapter 172.

Added by Acts 2003, 78th Leg., ch. 630, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 25, eff. September 1, 2005.

Sec. 157.102. GROUP HEALTH AND RELATED BENEFITS FUND. (a) The commissioners court of a county that adopts rules under Section 157.101 may require persons participating in the group health and related benefits plan to contribute toward the payment of the plan. The commissioners court may establish a fund to pay for the group health and related benefits. The fund may take the form of a single nonprofit trust as described by Section 222.002(c)(5)(A), Insurance Code.

(b) A person who elects to participate in any aspect of the group health and related benefits plan and is required to make contributions toward the payment of the plan must authorize contributions to the fund by salary deduction. The authorization must be submitted in writing to the county officer authorized by the commissioners court to administer payroll deductions. The authorization remains in effect as long as the person is required to make contributions toward the payment of the plan. If the amount of the person's required contributions changes after the date the request for deduction is submitted, the county shall notify the person of the change before the change takes effect. The county and

any participating flood control district or hospital district may also contribute to the fund.

(c) The fund may be used only for the purposes stated in Subsection (a). Employees who are discharged or who end their employment voluntarily have no vested right to contributions made to the fund. The fund shall continue to be used for the benefit of the remaining employees.

(d) Claims shall be paid from the fund in the same manner as provided by law for the payment of other claims of the county or flood control district.

(e) If a plan established under this section is terminated by the commissioners court, the remaining funds shall be transferred to the county and to any participating flood control district in proportion to the total contributions made by them.

Added by Acts 2003, 78th Leg., ch. 630, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.145, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 26, eff. September 1, 2005.

Sec. 157.103. SUBROGATION. (a) A county that has paid group health and related benefits for a sheriff, deputy sheriff, constable, deputy constable, or other county or precinct law enforcement official is subrogated to the law enforcement official's right of recovery for personal injuries caused by another to the extent of the payments made by the county.

(b) A county may not refuse to pay group health and related benefits on the ground that the law enforcement official has a claim for damages for personal injury.

Added by Acts 2003, 78th Leg., ch. 630, Sec. 1, eff. Sept. 1, 2003.

Sec. 157.104. PAYMENTS FOR CERTAIN HEALTH COVERAGE. A county may purchase and pay premiums for coverages as described by Section 157.006.

Added by Acts 2003, 78th Leg., ch. 630, Sec. 1, eff. Sept. 1, 2003.

Sec. 157.105. APPLICABILITY OF SUBCHAPTER. (a) A county that chooses to provide medical or related benefits may operate under this subchapter or Subchapter A.

(b) A county operating under this subchapter that previously created a fund under Section 157.003 may continue the fund or may terminate the fund and create a fund as provided by Section 157.102.

Added by Acts 2003, 78th Leg., ch. 630, Sec. 1, eff. Sept. 1, 2003.

Sec. 157.106. INSURANCE POOL OR INSURANCE COMPANY NOT CREATED. If a county provides for group health and related benefits, including medical care, surgical care, hospitalization, and pharmaceutical, life, accident, disability, long-term care, vision, dental, mental health, and substance abuse benefits, to persons listed under Section 157.101(a)(1), the county:

(1) has not created an insurance pool with a flood control district, hospital district, or other governmental entity, unless the county enters into a contract under Chapter 172; and

(2) is not an insurance company subject to the Insurance Code or to regulation by the Texas Department of Insurance as an insurance company.

Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 27, eff. September 1, 2005.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 157.901. LEGAL DEFENSE OF EMPLOYEES. (a) A county official or employee sued by any entity, other than the county with which the official or employee serves, for an action arising from the performance of public duty is entitled to be represented by the district attorney of the district in which the county is located, the county attorney, or both.

(b) If additional counsel is necessary or proper in the case of an official or employee provided legal counsel under Subsection (a) or if it reasonably appears that the act complained of may form the basis for the filing of a criminal charge against the official or employee, the official or employee is entitled to have the

commissioners court of the county employ and pay private counsel.

(c) A county official or employee is not required to accept the legal counsel provided in this section.

(d) Repealed by Acts 1989, 71st Leg., ch. 509, Sec. 2, eff. June 14, 1989.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 157.061 and amended by Acts 1989, 71st Leg., ch. 1, Sec. 37(a), (b), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 509, Sec. 1, 2, eff. June 14, 1989.

Sec. 157.9015. REPRESENTATION PERMITTED WITHOUT CONFLICT OF INTEREST. (a) It is not a conflict of interest for a district or county attorney under Section 157.901 to defend a county or a county official or employee sued by another county official or employee and also to advise or represent the opposing party on a separate matter arising from the performance of a public duty, regardless of whether the attorney gives the advice or representation to the opposing party before the suit began or while the suit is pending.

(b) If practicable, the district or county attorney shall assign a different attorney to defend the county or a county official or employee under this section than the attorney assigned to advise or represent the opposing party on a separate matter.

(c) This section does not require a district or county attorney to represent a county official or employee who brings a suit against the county or another county official or employee for an action arising from the performance of a public duty.

Added by Acts 1999, 76th Leg., ch. 338, Sec. 1, eff. May 29, 1999.

Sec. 157.902. PERSONNEL RULES APPLYING TO JUVENILE AND PROBATION OFFICERS, COURT REPORTERS, AND COUNTY AUDITOR'S OFFICE IN COUNTIES OF 500,000 OR MORE. (a) This section applies only to counties with a population of 500,000 or more.

(b) The district judges in the county may, by a majority vote at a meeting of which each judge has notice, apply to all juvenile and probation officers appointed under Title 82, Revised Statutes, all court reporters, and the county auditor and all the auditor's assistants in the county the rules that:

(1) are adopted by the commissioners court in the county for other county and district employees; and

(2) relate to hours of work; vacations; holidays; sick leave; deductions for absences; retirement; medical care; hospitalization; and compensation, accident, hospital, and disability insurance.

(c) The district judges must uniformly apply the rules as far as practicable.

(d) If the district judges do not exercise their authority under Subsection (b):

(1) the juvenile board of the county may, to the extent the board determines, apply the rules to the juvenile and probation officers;

(2) the district judges may, to the extent the judges determine by vote of a majority present, apply the rules to the court reporters; and

(3) the county auditor may, to the extent the auditor determines and with the approval of a majority of the district judges, apply the rules to the county auditor and the auditor's assistants.

(e) A decision of the district judges under Subsection (d)(2), must be evidenced by an order entered in the minutes of each judge's court. A certified copy of the order must be given to the commissioners court of the county.

(f) If a juvenile or probation officer, a county auditor, or an assistant to the auditor is jointly employed by two or more subdivisions of government, the rules that are applied to that person may be changed accordingly. To achieve uniform application of the rules, the person may be considered to be employed and paid by only one subdivision, but the expenses of administration and contributions may be prorated to the different employing subdivisions.

(g) This section does not affect any other law that applies to the time, method, and manner of appointment or discharge of a juvenile or probation officer, a court reporter, or the county auditor or an assistant to the auditor or that applies to the number or salaries of those persons.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 157.062 by Acts 1989, 71st Leg., ch. 1, Sec. 37(a), eff. Aug. 28, 1989.

Sec. 157.903. AUTHORITY TO INDEMNIFY ELECTED AND APPOINTED COUNTY OFFICERS. The commissioners court of a county by order may provide for the indemnification of an elected or appointed county officer against personal liability for the loss of county funds, or loss of or damage to personal property, incurred by the officer in the performance of official duties if the loss was not the result of the officer's negligence or criminal action.

Added by Acts 1989, 71st Leg., ch. 253, Sec. 1, eff. Aug. 28, 1989.

Sec. 157.9031. AUTHORITY TO REQUIRE REIMBURSEMENT FOR CERTAIN COVERAGE. A self-insuring county or the intergovernmental pool operating under Chapter 119, under policies concerning the provision of coverages adopted by the county's commissioners court or the pool's governing body, may require reimbursement for the provision of punitive damage coverage from a person to whom the county or intergovernmental pool provides coverage.

Added by Acts 2011, 82nd Leg., R.S., Ch. 439 (S.B. 1243), Sec. 2, eff. June 17, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 18, eff. June 17, 2011.

Sec. 157.904. PERSONNEL RECORDS OF CERTAIN SHERIFF'S DEPARTMENTS. (a) This section applies only to a sheriff's department in a county with a population of 3.3 million or more.

(b) In this section, "employee record" means any letter, memorandum, or document maintained by the department that relates to a department employee.

(c) The sheriff or the sheriff's designee shall maintain a permanent personnel file on each department employee. An employee's permanent personnel file must contain any employee record relating to:

(1) a commendation, congratulation, or honor bestowed on the employee by a member of the public or by the department for an action, duty, or activity that relates to the employee's official duties;

(2) any misconduct by the employee if the employee record is made by the department and if the misconduct resulted in disciplinary action by the department; and

(3) the periodic evaluation of the employee by a supervisor.

(d) An employee record relating to alleged misconduct by an employee may not be placed in the employee's permanent personnel file if the department determines that there is insufficient evidence to sustain the charge of misconduct.

(e) An employee record relating to disciplinary action taken against an employee or to alleged misconduct by the employee that is placed in the employee's permanent personnel file shall be removed from the file if a court or an administrative body of competent jurisdiction, including the sheriff's department civil service commission, determines that:

(1) the disciplinary action was taken without just cause; or

(2) the charge of misconduct was not supported by sufficient evidence.

(f) If a negative record of employee misconduct or other notation of negative impact is included in an employee's permanent personnel file, the sheriff or the sheriff's designee, not later than the 30th day after the date the record is included, shall notify the affected employee that the record has been included in the file. The employee may, not later than the 15th day after the date of receipt of the notification, file a written response to the negative employee record. The sheriff or the sheriff's designee shall place the response in the employee's permanent personnel file with the negative record.

(g) An employee is entitled, on request, to a copy of any employee record placed in the employee's permanent personnel file. The department may charge the employee a reasonable fee not to exceed actual cost for copies provided under this subsection.

(h) The sheriff or the sheriff's designee may not release an employee record or other information contained in an employee's permanent personnel file without first obtaining the employee's written permission, unless the release of the record or information is required by law.

Added by Acts 1991, 72nd Leg., ch. 875, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 2001, 77th Leg., ch. 669, Sec. 69, eff. Sept. 1, 2001.

Sec. 157.906. PAYMENT FOR APPEARANCES OF PEACE OFFICERS EMPLOYED BY COUNTY IN COURT OR ADMINISTRATIVE PROCEEDINGS. (a) A county shall pay a peace officer employed by the county for an appearance as a witness in a criminal suit, a civil suit, or an administrative proceeding in which the county or other political subdivision or government agency is a party in interest if the appearance:

(1) is required;

(2) is made on time off; and

(3) is made by the peace officer in the capacity of a peace officer.

(b) Payment under this section is at the peace officer's regular rate of pay.

(c) Payment under this section may be taxed as court costs in civil suits.

(d) This section does not reduce or prohibit compensation paid in excess of the regular rate of pay.

Added by Acts 2009, 81st Leg., R.S., Ch. 412 (H.B. 1960), Sec. 3, eff. June 19, 2009.

CHAPTER 158. COUNTY CIVIL SERVICE

SUBCHAPTER A. COUNTY CIVIL SERVICE SYSTEM

Sec. 158.001. DEFINITIONS. In this subchapter:

(1) "Commission" means a county civil service commission.

(2) "Employee" means a person who obtains a position by appointment and who is not authorized by statute to perform governmental functions involving an exercise of discretion in the person's own right, unless the person is included by a local civil service rule adopted under the procedures outlined in Section 158.009; or a person included in the coverage of a county civil service system as the result of an election held under Section 158.007. The term does not include a person who holds an office the term of which is limited by the constitution of this state.

(3) "Department" means a county, district, or precinct

office or officer, agency, or board that has jurisdiction and control of the performance of employees' official duties. The term includes a sheriff's department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 881, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 833 (H.B. 831), Sec. 1, eff. June 15, 2007.

Sec. 158.002. ELIGIBLE COUNTIES. A county with a population of 190,000 or more may, in accordance with this subchapter, create a county civil service system to include all the employees of the county who are not exempted from the system by the express terms or judicial interpretations of this subchapter or by the operation of Subchapter B.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 833 (H.B. 831), Sec. 2, eff. June 15, 2007.

Sec. 158.0025. CREATION OF SHERIFF'S DEPARTMENT CIVIL SERVICE SYSTEM IN CERTAIN COUNTIES NOT COVERED BY SUBCHAPTER B. (a) This section applies only to a county with a population of 190,000 or more, other than:

(1) a county that has created a civil service system under this subchapter to include those employees of the county described by Section 158.002; or

(2) a county in which the sheriff's department is eligible to create a civil service system under Subchapter B.

(b) Notwithstanding any other provision of this subchapter, the commissioners court of a county to which this section applies may create a civil service system under this section to include only the employees of the sheriff's department of the county.

(c) A sheriff's department civil service system may be created under this section by an order in accordance with Section 158.003 or by an election in accordance with Section 158.004.

(d) Notwithstanding Section 158.005(b), if an election is

ordered under Section 158.004 on the question of the creation of a sheriff's department civil service system under this section, the commissioners court shall order the ballot at the election to be printed to provide voting for or against the proposition: "Creation of a civil service system for the sheriff's department of the county."

(e) Notwithstanding Section 158.014(c), if an election is called to determine whether a sheriff's department civil service system created under this section will be dissolved under that section, the commissioners court shall order the ballot at the election to be printed to provide voting for or against the proposition: "Dissolution of the civil service system for the sheriff's department of the county."

(f) Sections 158.0065 and 158.007 do not apply to a sheriff's department civil service system created under this section.

(g) Except as otherwise provided by this section, the provisions of this subchapter that would govern the operation of a civil service system created for all employees of a county under this chapter apply to the operation of a civil service system created for the employees of the sheriff's department of a county under this section.

Added by Acts 2005, 79th Leg., Ch. 414 (S.B. 1673), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 833 (H.B. 831), Sec. 3, eff. June 15, 2007.

Sec. 158.003. CREATION BY ORDER. (a) A county civil service system may be created by an order adopted by a majority of the members of the commissioners court of the county.

(b) A copy of an order adopted under this section shall be placed in the minutes of the court's proceedings. The copy of the order is public information.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.004. CREATION BY ELECTION. (a) A county civil service system may be created by approval of the system by a majority

of the qualified voters of the county voting at an election called for that purpose.

(b) The commissioners court by order may call an election on the question of the creation of a county civil service system.

(c) The commissioners court shall hold the election called under this section on the first authorized uniform election date prescribed by Chapter 41, Election Code, that allows sufficient time for publication of the notice required by Subsection (e) and for compliance with any other requirements established by law.

(d) The order calling the election must specify the date, time, and place of the election, the form of the ballots, and the name of the presiding judge for each voting place.

(e) In addition to the notice required by Chapter 4, Election Code, the commissioners court must publish in a newspaper of general circulation in the county a substantial copy of the order calling the election. The first publication must be made on or before the 15th day before the date of the election and continue once a week for two consecutive weeks.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.005. BALLOTS AND VOTING AT ELECTION TO CREATE SYSTEM. (a) Each qualified voter of the county is entitled to vote at the election.

(b) The commissioners court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Creation of a county civil service system."

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.006. RESULT OF ELECTION TO CREATE SYSTEM. (a) The presiding judge of each voting place shall supervise the counting of votes cast at the election.

(b) Within 24 hours after the election, each judge shall certify to the commissioners court the results of the election at the voting place.

(c) A copy of the results of the election shall be filed with the county clerk. The copy on file with the county clerk is a public record.

(d) If the proposition is approved, the commissioners court shall declare the result and by order create the county civil service system. A copy of the order creating the system shall be placed in the minutes of the court's proceedings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.0065. PETITION TO CREATE BY ORDER OR ELECTION. (a) This section applies only in a county with a population of 290,000 or more that would not be eligible to expand or dissolve the system under Section 158.007.

(b) The commissioners court of a county that receives a petition signed by at least 50 percent of the county's employees requesting the creation of a county civil service system shall vote not later than the 30th day after the date that the court receives the petition whether to create a system by adopting an order under Section 158.003. If the court does not create a system as provided by Section 158.003, the court shall call an election to decide the question as provided by Sections 158.004-158.006.

Added by Acts 1991, 72nd Leg., ch. 548, Sec. 1, eff. June 15, 1991.

Sec. 158.007. EXPANDED COVERAGE OR DISSOLUTION OF SYSTEM IN POPULOUS COUNTIES. (a) In a county that has a population of more than 1.3 million and a civil service system created under this subchapter, the qualified voters of the county, voting at an election called for that purpose, may determine whether the system will be dissolved or expanded to cover the employees, except licensed attorneys, of the office of district or criminal district attorney, the adult and juvenile probation officers and their assistants, personnel in the county auditor's office including all assistant county auditors, and all other employees of the county not included in the coverage of the system and not specifically exempted by Section 158.013 or Subchapter B.

(b) The commissioners court of an eligible county by order may call an election on the question of the expansion or dissolution of a county civil service system as provided by Subsection (a).

(c) Except as otherwise provided by this section, the election must be held in the manner provided for an election to create a

county civil service system.

(d) The election must be held on the date of the general election for state and county officers.

(e) Each qualified voter of the county is entitled to vote at the election.

(f) The commissioners court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Keeping and expanding the county civil service system."

(g) The commissioners court shall declare the results and, if the proposition is approved by a majority of the qualified voters voting at the election, by order expand the coverage of the system as provided by Subsection (a). If the proposition is not so approved, the commissioners court by order shall dissolve the county civil service system. A copy of the order expanding or dissolving the system shall be placed in the minutes of the court's proceedings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 70, eff. Sept. 1, 2001.

Sec. 158.008. APPOINTMENT OF COMMISSION. (a) If a civil service system is created under this subchapter, the commissioners court shall appoint three persons to serve as the members of the civil service commission that administers the system. The commissioners court shall designate one of the members as chairman of the commission.

(b) Each member of the commission is appointed for a term of two years.

(c) The commissioners court shall fill a vacancy on the commission by appointing a person to serve the unexpired part of the term of the member whose position is vacant.

(d) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; and

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin.

(e) A member of the commissioners court of a county with a population of 2.5 million or more is not prohibited from being appointed to the civil service commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 830, Sec. 1, eff. June 14, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 73, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 136, eff. September 1, 2023.

Sec. 158.009. POWERS OF THE COMMISSION. (a) Except as provided by Section 158.010, the commission shall adopt, publish, and enforce rules regarding:

(1) the definition of a county employee;

(2) selection and classification of county employees;

(3) competitive examinations;

(4) promotions, seniority, and tenure;

(5) layoffs and dismissals;

(6) disciplinary actions;

(7) grievance procedures; and

(8) other matters relating to the selection of county employees and the procedural and substantive rights, advancement, benefits, and working conditions of county employees.

(b) The commission may adopt or use as a guide any civil service law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this subchapter and serves the needs of the county.

(c) The commission may not adopt or enforce a rule requiring a county employee to retire because of age. The commission may adopt a rule requiring a county employee, on reaching an age set by the commission, to submit annually to the commission an affidavit from a physician stating that the employee is physically and mentally capable of continuing employment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 881, Sec. 2, eff. Sept. 1, 1989.

Sec. 158.0095. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chairman of the commission shall, on request of a

person described by Subsection (b):

(1) administer oaths; and

(2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

(b) The affected employee, the county attorney, or a designee of the employee or county attorney may request the chairman of the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers relevant to the case. The request must be made before the 15th day before the date a commission proceeding will be held.

(c) An oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(d) A response to a subpoena duces tecum under this section is considered to have been made under oath.

(e) A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An offense under this section is a misdemeanor punishable by a fine up to $1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 851 (H.B. 3788), Sec. 1, eff. June 17, 2011.

Sec. 158.010. EMPLOYMENT BY DEPARTMENTS. (a) The head of each department included in the coverage of a county civil service system may assume responsibility for selecting all persons who are to be employees of that department.

(b) A person employed by a department whose head has assumed responsibility as provided by Subsection (a) serves as a probationary employee during the first six months after selection and may not be included in the coverage of the county civil service system during that six-month period. At the end of the six-month period the person's employment may be terminated or the person may be made a permanent employee by the head of the department.

(c) On becoming a permanent employee, a person comes under the coverage of the county civil service system and is fully entitled to all benefits of and subject to all obligations imposed by the system.

(d) This section does not affect the status of any person who is an employee of a department under a county civil service system on the date the head of the department assumes responsibility for selecting persons who are to be employees of that department.

(e) The rules adopted by the commission under Section 158.009 relating to the selection and classification of county employees and to competitive examinations for selection apply to the initial hiring of personnel under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 881, Sec. 3, eff. Sept. 1, 1989.

Sec. 158.011. COMPENSATION AND STAFF. The members of the commission serve without compensation, but the commissioners court shall reimburse each member for all necessary expenses incurred in performing the member's duties. The commissioners court shall provide the commission with adequate office space and sufficient funds to employ an adequate staff and to purchase necessary supplies and equipment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.012. APPEALS. (a) A county employee who, on a final decision by the commission, is demoted, suspended, or removed from the employee's position may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) An appeal under this section is under the substantial evidence rule, and the judgment of the district court is appealable as in other civil cases.

(c) If the district court renders judgment for the petitioner, the court may order reinstatement of the employee, payment of back pay, or other appropriate relief.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 68, Sec. 1, eff. Sept. 1, 1997.

Sec. 158.0121. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. In an

appeal under Section 158.012, the district court may not substitute its judgment for the judgment of the commission on the weight of the evidence on questions committed to the commission's discretion but:

(1) may affirm the commission's decision in whole or in part; and

(2) shall reverse or remand the case for further proceedings if substantial rights of the petitioner have been prejudiced because the commission's findings, inferences, conclusions, or decisions are:

(A) in violation of a constitutional or statutory provision;

(B) in excess of the commission's authority;

(C) made through unlawful procedure;

(D) affected by other error of law;

(E) not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole; or

(F) arbitrary or capricious, characterized by abuse of discretion, or clearly an unwarranted exercise of discretion.

Added by Acts 1997, 75th Leg., ch. 68, Sec. 2, eff. Sept. 1, 1997.

Sec. 158.0122. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. (a) After service of the petition on the commission and within the time permitted for filing an answer or within additional time allowed by the court, the commission shall send to the reviewing court the original or a certified copy of the entire record of the proceeding under review. The record shall be filed with the clerk of the court. The record may be shortened by stipulation of all parties to the review proceedings. The court may assess additional costs against a party who unreasonably refuses to stipulate to limit the record, unless the party pays all costs of record preparation. The court may require or permit later corrections or additions to the record.

(b) A party may apply to the court to present additional evidence. If the court is satisfied that the additional evidence is material and that there were good reasons for the failure to present it in the proceeding before the commission, the court may order that the additional evidence be taken before the commission on conditions

determined by the court. The commission may change its findings and decisions by reason of the additional evidence and shall file the additional evidence and any changes, new findings, or decisions with the reviewing court.

(c) The party seeking judicial review shall offer, and the reviewing court shall admit, the commission record into evidence as an exhibit.

(d) The court shall conduct the review sitting without a jury and is confined to the commission record, except that the court may receive evidence of procedural irregularities alleged to have occurred before the commission that are not reflected in the record.

Added by Acts 1997, 75th Leg., ch. 68, Sec. 2, eff. Sept. 1, 1997.

Sec. 158.0123. COST OF PREPARING COMMISSION RECORD. (a) The commission may require a party who appeals a final decision under Section 158.012 to pay one-half of the cost of preparation of the original or a certified copy of the record of the commission proceeding that is required to be sent to the reviewing court.

(b) A charge imposed under this section is a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

Added by Acts 1997, 75th Leg., ch. 68, Sec. 2, eff. Sept. 1, 1997.

Sec. 158.013. EXEMPTIONS. (a) A person who on August 30, 1971, was an employee of an eligible county under this subchapter may not be required to take a competitive examination or perform any other act to maintain the position held on that date.

(b) This subchapter does not apply to:

(1) assistant district attorneys, investigators, or other employees of a district or criminal district attorney, except as provided by Section 158.007;

(2) the official shorthand reporter of a court; or

(3) an elected or appointed officer under the constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.014. DISSOLUTION OF SYSTEM. (a) If, after a civil service system under this subchapter has been in effect for at least one year, 10 percent of the qualified voters of the county petition the commissioners court to dissolve the system, the commissioners court shall call an election to determine whether the system will be dissolved.

(b) An election under this section must be held in the manner provided for an election to create a county civil service system.

(c) The ballot for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the county civil service system."

(d) If the proposition is approved by a majority of the qualified voters voting at the election, the commissioners court shall declare the result and by order dissolve the civil service system. A copy of the order dissolving the system shall be placed in the minutes of the court's proceedings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.015. LIMITATION ON ELECTIONS. The commissioners court may not call an election under Section 158.004 or 158.014 for at least two years after the date of any previous election under either of those sections.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. SHERIFF'S DEPARTMENT CIVIL SERVICE SYSTEM IN CERTAIN COUNTIES

Sec. 158.031. DEFINITIONS. In this subchapter:

(1) "Commission" means a sheriff's department civil service commission.

(2) "Department" means a sheriff's department.

(3) "Employee" means an employee of a sheriff's department. The term includes a deputy sheriff.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.032. ELIGIBLE DEPARTMENTS. A sheriff's department in

a county with a population of more than 500,000 may, in accordance with this subchapter, create a civil service system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 127, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 92, eff. Sept. 1, 1991.

Sec. 158.033. PETITION AND ELECTION. (a) If at least 20 percent of the employees of an eligible department under this subchapter sign a petition requesting an election under this section and present the petition to the county judge of the employing county, the judge shall order a departmental election on the question of the creation of a sheriff's department civil service system.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "Creation of a sheriff's department civil service system."

(d) The county judge shall canvass the votes and declare the result.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.034. APPOINTMENT OF COMMISSION. (a) In a county with a population of less than 2.8 million, if a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff, commissioners court, and district attorney shall each appoint one person to serve as a member of the civil service commission that administers the system. In a county with a population of 2.8 million or more, if a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff, commissioners court, and district attorney shall each appoint two persons to serve as members of the civil service commission that administers the system, and the three appointing authorities shall appoint one member by joint action requiring the affirmative vote of each of the authorities.

(b) The sheriff shall designate one of the members as chairman of the commission.

(c) Each member of the commission is appointed for a term of two years. However, the initial members of the commission in a county with a population of less than 2.8 million shall determine by lot which two of them will serve a term of two years and which one of them will serve a term of one year. In a county with a population of 2.8 million or more:

(1) the initial member appointed jointly under Subsection (a) serves a term of two years; and

(2) the initial members appointed by each individual appointing authority shall determine by lot which one of the two initial members appointed by the appointing authority will serve a term of two years and which initial member appointed by that authority will serve a term of one year.

(d) The entity that appointed a member of the commission whose position becomes vacant shall appoint a person to serve the unexpired part of the member's term.

(e) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; and

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 534, Sec. 1, eff. May 31, 1997.

Sec. 158.035. POWERS OF COMMISSION. (a) The commission shall adopt, publish, and enforce rules regarding:

(1) selection and classification of employees;

(2) competitive examinations;

(3) promotions, seniority, and tenure;

(4) layoffs and dismissals;

(5) disciplinary actions;

(6) grievance procedures;

(7) the rights of employees during an internal investigation; and

(8) other matters relating to the selection of employees and the procedural and substantive rights, advancement, benefits, and

working conditions of employees.

(b) The commission may adopt or use as a guide any civil service law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this subchapter and is consistent with the needs and circumstances of the department.

(c) In a county with a population of 2.8 million or more, a panel of three commissioners shall preside at the hearing and vote on the commission's final decision in any case involving termination, demotion, or recovery of back pay. A panel's decision is the final decision of the commission for purposes of Sections 158.0351 and 158.037. The commission shall adopt rules prescribing the commission's procedures for assigning members to a panel. A panel may not include more than one member who was appointed to the commission by the same individual appointing authority.

(d) In rendering a final decision regarding a disciplinary action by the department, the commission may only sustain, overturn, or reduce the disciplinary action. The commission may not enhance a disciplinary action by the department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 218, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 893, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 534, Sec. 2, eff. May 31, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 432 (H.B. 2168), Sec. 1, eff. September 1, 2009.

Sec. 158.0351. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT. (a) This section applies only to a county with a population of 2.8 million or more.

(b) If an employee is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the sheriff may temporarily suspend the person with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony indictment or misdemeanor complaint.

(c) The sheriff shall notify the suspended employee in writing that the person is being temporarily suspended for a specific period with or without pay and that the temporary suspension is not intended

to reflect an opinion on the merits of the indictment or complaint.

(d) An employee indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the sheriff with a civil service rule violation directly related to the indictment or complaint may delay the civil service hearing for not more than 30 days after the date of the final disposition of the indictment or complaint.

(e) If the sheriff temporarily suspends an employee under this section and the employee is not found guilty as charged in the indictment or complaint in a court of competent jurisdiction, the employee may appeal to the commission for recovery of back pay. The commission may:

(1) award all or part of the back pay, even if the employee is a deputy sheriff whose appointment as a deputy was revoked under Section 85.003(c); or

(2) modify or uphold the decision by the sheriff.

(f) Acquittal or dismissal of an indictment or a complaint does not mean that an employee has not violated a civil service rule and does not negate the charges that may have been or may be brought against the employee by the sheriff.

(g) Conviction of a felony is cause for dismissal, and conviction of a Class A or B misdemeanor may be cause for disciplinary action or dismissal.

Added by Acts 1993, 73rd Leg., ch. 893, Sec. 2, eff. Sept. 1, 1993.

Sec. 158.0355. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chairman of the commission shall, on request of a person described by Subsection (b):

(1) administer oaths; and

(2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

(b) The affected employee, the county attorney, or a designee of the employee or the county attorney may request the chairman of the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers relevant to the case. The request must be made before the 10th day before the date a

commission proceeding will be held.

(c) An oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(d) A response to a subpoena duces tecum under this section is considered to have been made under oath.

(e) A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An offense under this section is a misdemeanor punishable by a fine up to $1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 851 (H.B. 3788), Sec. 2, eff. June 17, 2011.

Sec. 158.036. COMPENSATION AND STAFF. The members of the commission serve without compensation, but the commissioners court shall reimburse each member for actual and necessary expenses incurred in performing the member's duties. The commissioners court shall provide the commission with adequate office space and sufficient funds to employ an adequate staff and to purchase necessary supplies and equipment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.037. APPEALS. (a) An employee who, on a final decision by the commission, is demoted, suspended, or removed from a position may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) An appeal under this section is under the substantial evidence rule, and the judgment of the district court is appealable as in other civil cases.

(c) If the district court renders judgment for the petitioner, the court may order reinstatement of the employee, payment of back pay, or other appropriate relief.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 68, Sec. 3, eff. Sept. 1, 1997.

Sec. 158.0371. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. (a) The same standards described by Section 158.0121 apply to an appeal under Section 158.037.

(b) The procedures for review under Section 158.037 are the same as provided by Section 158.0122.

(c) The commission may require a party who appeals a decision under Section 158.037 to pay the cost of preparing the commission record in the same manner provided by Section 158.0123.

Added by Acts 1997, 75th Leg., ch. 68, Sec. 4, eff. Sept. 1, 1997.

Sec. 158.038. EXEMPTIONS. (a) A person who is an employee of a department on the date that a civil service system is adopted under this subchapter in the department may not be required to take a competitive examination or perform any other act under this subchapter to maintain the person's employment.

(b) The sheriff of a county with a population of 3.3 million or less may designate as exempt from the civil service system:

(1) the position of chief deputy;

(2) four positions of major deputy;

(3) one or more positions in the office of departmental legal counsel; and

(4) additional positions in the department; provided, however, that the sheriff may not designate as exempt a total of more than 10 positions.

(c) The sheriff of a county with a population of more than 3.3 million may designate as exempt from the civil service system:

(1) the position of chief deputy;

(2) one or more positions in the office of departmental legal counsel; and

(3) additional positions in the department, not to exceed 25 in number, that have been determined by the civil service commission to be administrative or supervisory positions; provided, however, that the sheriff may not designate as exempt any position in the deputy classifications of captain or below. The designation of any such additional exempt position by the sheriff shall not diminish the number of positions within the deputy classifications of captain or below.

(d) At the time a new sheriff takes office, an employee holding

an exempt position may be transferred to the nonexempt position held by the employee immediately before being promoted to an exempt position. A person who was not an officer in the department when appointed to an exempt position may be transferred only to an entry level position in accordance with the system's civil service rules.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 810, Sec. 1, eff. Aug. 26, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 71, eff. Sept. 1, 2001.

Sec. 158.039. DISSOLUTION OF SYSTEM. (a) If, after a civil service system under this subchapter has been in effect in a department for at least one year, 20 percent of the employees of the department petition the county judge to dissolve the system, the judge shall order a departmental election on the question of the dissolution of the department's civil service system.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the sheriff's department civil service system."

(d) The county judge shall canvass the votes and declare the result.

(e) If the proposition is approved by a majority of the employees voting at the election, the county judge shall declare the sheriff's department civil service system dissolved.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.040. EXCLUSIVITY. A civil service system created under this subchapter and in effect applies to the department to the exclusion of a civil service system in that county created under Subchapter A or another law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 158.041. ILLNESS OR INJURY LEAVE OF ABSENCE. (a) A county shall provide to an employee a leave of absence for an illness or injury related to the employee's activities performed in the line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the leave shall continue for at least one year.

(b) At the end of the one-year period, the commissioners court of the county may extend the line of duty illness or injury leave at full or reduced pay. If the employee's leave is not extended or the employee's salary is reduced below 60 percent of the employee's regular monthly salary, and the employee is a member of a pension fund, the employee may retire on pension until the employee is able to return to duty.

(c) If pension benefits are not available to an employee who is temporarily disabled by a line of duty injury or illness and if the year at full pay and any extensions granted by the commissioners court have expired, the employee may use accumulated sick leave, vacation time, and other accumulated time before the employee is placed on temporary leave.

(d) If an employee is temporarily disabled by an injury or illness that is not related to activities performed in the employee's line of duty, the employee may use all sick leave, vacation time, and other accumulated time before the employee is placed on temporary leave.

(e) After recovery from a temporary disability, an employee shall be reinstated at the same rank and with the same seniority the employee had before going on temporary leave.

(f) While an employee who is temporarily disabled is on leave, another employee may voluntarily do the work of the employee who is temporarily disabled or donate leave time to maintain the salary for the employee who is temporarily disabled until the temporarily disabled employee returns to duty.

Added by Acts 2023, 88th Leg., R.S., Ch. 488 (H.B. 995), Sec. 1, eff. June 10, 2023.

Sec. 158.042. REAPPOINTMENT AFTER RECOVERY FROM DISABILITY. With the commission's approval and if otherwise qualified, an employee who has been certified by a physician selected by a pension

fund as having recovered from a disability for which the employee has been receiving a monthly disability pension is eligible for reappointment to the classified position that the employee held on the date the employee qualified for the monthly disability pension.

Added by Acts 2023, 88th Leg., R.S., Ch. 488 (H.B. 995), Sec. 1, eff. June 10, 2023.

CHAPTER 159. FINANCIAL DISCLOSURE BY COUNTY OFFICERS AND EMPLOYEES

SUBCHAPTER A. FINANCIAL DISCLOSURE BY CERTAIN COUNTY OFFICERS

Sec. 159.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:

(1) a county officer or candidate for a county office of a county with a population of 100,000 or more; or

(2) a justice of the peace or a candidate for the office of justice of the peace of a county with a population of 125,000 or more.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 480 (H.B. 2468), Sec. 1, eff. September 1, 2007.

Sec. 159.002. DEFINITION. In this subchapter, "county officer" means a county judge, county commissioner, or county attorney.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.

Sec. 159.003. FINANCIAL STATEMENT REQUIRED. (a) A county officer, candidate for a county office, justice of the peace, or candidate for the office of justice of the peace shall file a financial statement as required by this subchapter.

(b) The statement must:

(1) be filed with the county clerk of the county in which the officer, justice, or candidate resides; and

(2) comply with Sections 572.022 and 572.023, Government

Code, and with any order of the commissioners court of the county requiring additional disclosures.

(c) The statement may be filed with the county clerk by electronic mail. The county clerk may prescribe the manner and format for filing by electronic mail.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 480 (H.B. 2468), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 76.08, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1172 (S.B. 692), Sec. 1, eff. September 1, 2013.

Sec. 159.004. FILING DATES; TIMELINESS OF FILING. (a) A county officer or justice of the peace shall file the financial statement required by this subchapter within the time prescribed by Section 572.026, Government Code. A candidate for office as a county officer or justice of the peace shall file the financial statement required by this subchapter within the time prescribed by Section 572.027, Government Code.

(b) Except as provided in Subsection (e), the timeliness of the filing is governed by Section 572.029, Government Code.

(c) A county officer or justice of the peace may request the county clerk to grant an extension of time of not more than 60 days for filing the statement. The county clerk shall grant the request if it is received before the filing deadline or if a timely filing or request for extension is prevented because of physical or mental incapacity. The county clerk may not grant more than one extension to a person in one year except for good cause shown.

(d) The county clerk may not grant an extension to a candidate for office as a county officer or justice of the peace.

(e) A person is considered to have timely filed a financial statement under this subchapter if:

(1) the statement is personally delivered not later than 5 p.m. of the last day for filing the statement; or

(2) the county clerk with whom the statement is required to

be filed has adopted rules and procedures to provide for the electronic filing of the statement and the statement is electronically filed in accordance with those rules and procedures not later than midnight of the last day for filing the statement.

(f) A county clerk may adopt rules and procedures under this section relating only to the manner in which a person must electronically file a financial statement and the required format of an electronically filed statement.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 480 (H.B. 2468), Sec. 3, eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 894 (H.B. 1035), Sec. 3, eff. September 1, 2013.

Sec. 159.005. PREPARATION OF FORMS. (a) The county clerk may:

(1) design a form to be used for filing the financial statement required by this subchapter; or

(2) require that a form designed by the Texas Ethics Commission under Chapter 572, Government Code, be used for filing the financial statement.

(b) The county clerk shall mail or, at the request of the person required to file under this subchapter, send by electronic mail, the form to each person required to file under this subchapter within the time prescribed by Section 572.030(c), Government Code.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 969 (H.B. 3602), Sec. 1, eff. June 19, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1172 (S.B. 692), Sec. 2, eff. September 1, 2013.

Sec. 159.006. DUPLICATE STATEMENTS. If a person has filed a financial statement under one provision of this subchapter covering the preceding calendar year, the person is not required to file a

financial statement required under another provision of this subchapter to cover that same year if, before the deadline for filing the statement under the other provision, the person notifies the county clerk in writing that the person has already filed a financial statement under this subchapter to cover that year.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.

Sec. 159.007. PUBLIC ACCESS TO STATEMENTS. (a) Financial statements filed under this subchapter are public records. The county clerk shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours.

(b) During the one-year period following the date of filing of a financial statement, each time a person, other than the county clerk or an employee of the county clerk who is acting on official business, requests to see the financial statement, the county clerk shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The county clerk shall retain that statement in the file for one year after the date the requested financial statement is filed.

(c) The county clerk may, and on notification from a former county officer, justice of the peace, or candidate shall, destroy any financial statements filed by the officer, justice, or candidate two years after the date the person ceases to be an officer, justice, or candidate, as applicable.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 480 (H.B. 2468), Sec. 4, eff. September 1, 2007.

Sec. 159.0071. NOTIFICATION TO PROSECUTING ATTORNEY. The county clerk of each county in which a person is required to file a financial statement under this chapter shall maintain a list of the county officers, candidates for county office, justices of the peace, and candidates for the office of justice of the peace required to

file the financial statement. Not later than the 10th day after each applicable filing deadline, the county clerk shall provide to the county attorney or criminal district attorney a copy of the list showing for each county officer, candidate for county office, justice of the peace, and candidate for justice of the peace:

(1) whether the officer, justice, or candidate timely filed a financial statement as required by this subchapter;

(2) whether the officer, justice, or candidate timely requested and was granted an extension of time to file as provided for by Section 159.004 and the new due date for each such officer, justice, or candidate; or

(3) whether the officer, justice, or candidate did not timely file a financial statement or receive an extension of time.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.02, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 480 (H.B. 2468), Sec. 5, eff. September 1, 2007.

Sec. 159.008. CRIMINAL PENALTY. (a) A county officer, candidate for county office, justice of the peace, or candidate for the office of justice of the peace commits an offense if the officer, justice, or candidate knowingly fails to file a financial statement as required by this subchapter.

(b) An offense under this section is a Class B misdemeanor.

(c) It is a defense to prosecution under this section that the officer, justice, or candidate did not receive copies of the financial statement form required to be mailed to the officer, justice, or candidate by this subchapter.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 480 (H.B. 2468), Sec. 6, eff. September 1, 2007.

Sec. 159.009. VENUE. An offense under this subchapter, including perjury, may be prosecuted in any county in which it may be

prosecuted under the Code of Criminal Procedure.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.

Sec. 159.010. CIVIL PENALTY. (a) A person who determines that a person required to file a financial statement under this subchapter has failed to do so may notify in writing:

(1) the county attorney or criminal district attorney; or

(2) the district attorney, if the person required to file the statement is the county attorney.

(b) On receipt of a written notice under Subsection (a), the county attorney, district attorney, or criminal district attorney shall determine from any available evidence whether the person to whom the notice relates has failed to file a statement. On making that determination, the county attorney, district attorney, or criminal district attorney shall immediately mail by certified mail a notice of the determination to the person responsible for filing the statement.

(c) If the person responsible for filing the statement fails to file the statement before the 30th day after the person receives the notice under Subsection (b), the person is civilly liable to the county for an amount not to exceed $1,000.

(d) A penalty paid under this section shall be deposited to the credit of the general fund of the county.

(e) This section is cumulative of any other available sanctions for late filings of statements.

Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 18, eff. Sept. 1, 1997.

SUBCHAPTER B. FINANCIAL DISCLOSURE BY OTHER COUNTY OFFICERS AND EMPLOYEES

Sec. 159.031. COUNTY COVERED BY SUBCHAPTER. This subchapter applies only to a county with a population of 125,000 or more.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 38(a), eff. Aug. 28, 1989. Renumbered from Sec. 159.001 and amended by Acts 1991, 72nd Leg., ch. 304, Sec. 7.01, eff. Jan. 1, 1992.

Sec. 159.032. DEFINITIONS. In this subchapter:

(1) "County officer" means a sheriff, county tax assessor-collector, county clerk, district clerk, county treasurer, county auditor, or county purchasing agent. The term does not include a county officer as defined by Section 159.002.

(2) "Precinct officer" means a constable.

(3) "County judicial officer" means a justice of the peace or a master, magistrate, or referee appointed by a justice of the peace.

(4) "County employee" does not include a person covered by Subdivision (1), (2), or (3).

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989. Renumbered from Sec. 159.002 and amended by Acts 1991, 72nd Leg., ch. 304, Sec. 7.01, eff. Jan. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 763, Sec. 8, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 13.05, eff. Sept. 1, 1999.

Sec. 159.033. FINANCIAL DISCLOSURE REPORTING SYSTEM. (a) The commissioners court of the county may adopt by order a financial disclosure reporting system for county officers, precinct officers, county judicial officers, candidates for those offices, and county employees.

(b) The commissioners court shall prescribe the items required to be reported and the times the report is due.

(c) If reporting is required, the commissioners court may restrict the reporting requirement to a limited part of county employees if all employees with similar jobs are required to report.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989. Renumbered from Sec. 159.003 and amended by Acts 1991, 72nd Leg., ch. 304, Sec. 7.01, eff. Jan. 1, 1992.

Sec. 159.034. FILING REQUIREMENT. (a) The commissioners court may require the report to be filed with the clerk of the commissioners court, the county auditor, or any other county officer. However, the commissioners court may require the report to be filed

with the county clerk or other elected county officer only if the county clerk or elected county officer consents to the imposition of that duty.

(b) The commissioners court may not require records filed under this subchapter to be maintained for more than one year and may require the authority with whom the records are filed to destroy the records after one year.

(c) A person required by order of the commissioners court to file a report under this subchapter is considered to have complied with the order if the person files with the authority prescribed by the commissioners court a report that complies with the requirements of Chapter 572, Government Code.

(d) A report filed under this subchapter may be filed by electronic mail. The authority with whom the report is filed may prescribe the manner and format for filing by electronic mail.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989. Renumbered from Sec. 159.004 and amended by Acts 1991, 72nd Leg., ch. 304, Sec. 7.01, eff. Jan. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(38), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 568 (S.B. 2072), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1172 (S.B. 692), Sec. 3, eff. September 1, 2013.

Sec. 159.0341. TIMELINESS OF FILING. (a) A person is considered to have timely filed a report under this subchapter if:

(1) the report is filed in accordance with Section 572.029, Government Code;

(2) the report is personally delivered not later than 5 p.m. of the last day for filing the report; or

(3) the officer with whom the report is required to be filed has adopted rules and procedures to provide for the electronic filing of the report and the report is electronically filed in accordance with those rules and procedures not later than midnight of the last day for filing the report.

(b) An officer with whom a report is required to be filed under this subchapter may adopt rules and procedures under this section

relating only to the manner in which a person must electronically file a report and the required format of an electronically filed report.

Added by Acts 2013, 83rd Leg., R.S., Ch. 894 (H.B. 1035), Sec. 4, eff. September 1, 2013.

Sec. 159.035. CIVIL PENALTY. (a) If a report is determined to be late, the person responsible for filing the report is civilly liable to the county for $100. The county attorney or the district or criminal district attorney with civil jurisdiction may not initiate suit for the penalty until the 10th day after the date a notice concerning the late report is mailed to the person. If the report is filed and the penalty is paid before the 10th day after the date of the mailing, the authority with whom the report is filed shall notify the county attorney or the district or criminal district attorney, and the civil suit under this section may not be initiated.

(b) A penalty paid under this section shall be deposited to the credit of the general fund of the county.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989. Renumbered from Sec. 159.005 and amended by Acts 1991, 72nd Leg., ch. 304, Sec. 7.01, eff. Jan. 1, 1992.

Sec. 159.036. CRIMINAL PENALTY. (a) An officer, candidate, or employee required to file a report by an order adopted under this subchapter commits an offense if the person knowingly fails to file the report as required by the order.

(b) An offense under this section is a Class B misdemeanor.

(c) It is a defense to prosecution under this section that the person has filed the required report and paid a civil penalty as provided by this subchapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989. Renumbered from Sec. 159.006 and amended by Acts 1991, 72nd Leg., ch. 304, Sec. 7.01, eff. Jan. 1, 1992.

SUBCHAPTER C. FINANCIAL DISCLOSURE BY COUNTY JUDICIAL OFFICERS

Sec. 159.051. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Ethics Commission.

(2) "County judicial officer" means the judge of a statutory county court or statutory probate court.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 7, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1154, Sec. 1, eff. Sept. 1, 1997.

Sec. 159.052. FILING REQUIREMENT. (a) A county judicial officer or a candidate for office as a county judicial officer shall file with the county clerk or the commission a financial statement that complies with Sections 572.022 and 572.023, Government Code.

(b) A county judicial officer or candidate who files a financial statement with the commission shall file with the county clerk a document stating that the officer or candidate is filing the financial statement with the commission. The document must be filed by the deadline for filing the financial statement.

(c) A financial statement filed with the county clerk may be filed by electronic mail. The county clerk may prescribe the manner and format for filing by electronic mail under this subsection.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 7, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1154, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1172 (S.B. 692), Sec. 4, eff. September 1, 2013.

Sec. 159.053. FILING DATES; TIMELINESS OF FILING. (a) A county judicial officer shall file the financial statement required by this subchapter within the time prescribed by Section 572.026, Government Code. A candidate for office as a county judicial officer shall file the financial statement required by this subchapter within the time prescribed by Section 572.027, Government Code.

(b) Except as provided in Subsection (c), the timeliness of the filing is governed by Section 572.029, Government Code.

(c) A person is considered to have timely filed a financial statement under this subchapter if:

(1) the statement is personally delivered not later than 5 p.m. of the last day for filing the statement; or

(2) the county clerk with whom the statement is required to be filed has adopted rules and procedures to provide for the electronic filing of the statement and the statement is electronically filed in accordance with those rules and procedures not later than midnight of the last day for filing the statement.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 7, eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 894 (H.B. 1035), Sec. 5, eff. September 1, 2013.

Sec. 159.054. PREPARATION OF FORMS. (a) The county clerk may:

(1) design a form to be used for filing the financial statement required by this subchapter; or

(2) require that a form designed by the commission under Chapter 572, Government Code, be used for filing the financial statement.

(b) The county clerk shall make paper and electronic copies of the form available to each person required to file under this subchapter within the time prescribed by Section 572.030(c), Government Code.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 7, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1154, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1172 (S.B. 692), Sec. 5, eff. September 1, 2013.

Sec. 159.055. PUBLIC ACCESS TO STATEMENTS AND RELATED RECORDS. (a) Except as provided by Subsection (b), a financial statement filed under this subchapter or a document filed under Section 159.052(b) is a public record. The county clerk or the commission shall maintain the financial statements or documents in a manner that is accessible to the public during regular business hours.

(b) The county clerk or the commission shall remove the officer's or candidate's home address and the names of the officer's

or candidate's dependent children from the officer's or candidate's financial statement and any county or commission record derived from the financial statement before the statement or record is made available to a member of the public.

(c) Until the first anniversary of the date a financial statement is filed, each time a person requests to see the financial statement, excluding the county clerk or an employee of the county clerk or the commission, acting on official business, the county clerk or the commission shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The county clerk or the commission shall maintain that statement in the file until the first anniversary of the date the financial statement is filed.

(d) After the second anniversary of the date a person ceases to be a county judicial officer, the county clerk or the commission may and on notification from the former officer shall destroy each financial statement filed by the officer.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 7, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1154, Sec. 3, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 137 (H.B. 1872), Sec. 1, eff. May 23, 2019.

Acts 2019, 86th Leg., R.S., Ch. 137 (H.B. 1872), Sec. 2, eff. May 23, 2019.

Sec. 159.056. FAILURE TO FILE; CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) is a county judicial officer or a candidate for office as a county judicial officer; and

(2) knowingly fails to file a financial statement as required by this subchapter.

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 7, eff. Sept. 1, 1995.

SUBCHAPTER D. PROTECTION FOR JUDICIAL OFFICERS

Sec. 159.071. OMISSION OF ADDRESS. (a) In this section:

(1) "County attorney" means a county attorney whose jurisdiction includes any criminal law or child protective services matter.

(2) "Family member" has the meaning assigned by Section 31.006, Finance Code.

(3) "State judge" has the meaning assigned by Section 1.005, Election Code.

(b) On receiving notice from the Office of Court Administration of the Texas Judicial System of a county attorney's or state judge's qualifications for office or on receipt of a written request from a county attorney, state judge, spouse of a county attorney, family member of a state judge, or candidate for the office of county attorney or state judge, the county clerk shall remove or redact the residence address of the county attorney, state judge, spouse of a county attorney, family member of a state judge, or candidate for the office of county attorney or state judge from any report filed under this chapter by the county attorney, state judge, or candidate before the statement is made available to a member of the public.

Added by Acts 2019, 86th Leg., R.S., Ch. 518 (S.B. 489), Sec. 4, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 383 (S.B. 1134), Sec. 12, eff. September 1, 2021.

CHAPTER 160. GRIEVANCE PROCEDURE FOR COUNTY EMPLOYEES

Sec. 160.001. POLICY. The purpose of this chapter is to provide reasonable, standardized grievance procedures for certain counties and their employees because:

(1) it is the policy of this state that the right of public employees to present, individually or through a representative that does not claim the right to strike, grievances concerning their wages, hours of work, or conditions of work should continue unimpaired; and

(2) the application of that policy creates a need for reasonable, standardized procedures for certain populous counties and their employees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989.

Sec. 160.002. COUNTIES AND EMPLOYEES AFFECTED. This chapter applies only to a county with a population of more than 3.3 million and its employees, including but not limited to the employees of road and bridge districts, flood control districts, and juvenile probation departments in the county. However, this chapter does not apply to the employees of a sheriff's department.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989. Amended by Acts 2003, 78th Leg., ch. 632, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 74, eff. September 1, 2011.

Sec. 160.003. DEFINITION. In this chapter, "grievance" means a claim by an employee that the employee was adversely affected by a violation, misinterpretation, misapplication, or disparity in the application of a specific law, ordinance, resolution, written or unwritten policy, or rule regarding wages, hours of work, or conditions of work.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989.

Sec. 160.004. PROCEDURE IN GENERAL. A grievance must be presented and adjusted in accordance with the grievance procedures prescribed by this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989.

Sec. 160.005. STANDARDIZED GRIEVANCE PROCEDURE. (a) The commissioners court of the county shall enact orders to provide for:

(1) filing of written grievances;

(2) written responses to the grievance allegations;

(3) procedures for appeal to an appointed county grievance resolutions committee;

(4) further appeal to the commissioners court;

(5) presentation of grievances by an employee's requested representative;

(6) reasonable leave with pay for the presentation of

grievances; and

(7) other necessary procedures to permit effective implementation of this chapter.

(b) The orders and procedures shall apply equally to all employees of the county, including employees of independent elected officials, and shall provide for reasonable timetables for filing and responding to grievances.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989.

Sec. 160.006. NO RETALIATION OR REPRISAL. (a) An employee may not be made subject to retaliation, reprisal, or discrimination on account of having exercised any right or participated in any procedure established by this chapter. A supervisor or management official may not be made subject to retaliation, reprisal, or discrimination because of any grievance adjustment offered under this chapter to an employee with a grievance or because of testifying on any employee's behalf during a grievance procedure under this chapter.

(b) A district court of appropriate venue may enjoin a violation of this section. The court may order, in addition to other relief, the mandatory reinstatement and the payment of back pay for individuals discharged, suspended, or demoted in violation of this section.

(c) An individual suffering retaliation, reprisal, or discrimination in violation of this section is entitled to reasonable attorney's fees as a result of successful court action regarding the retaliation, reprisal, or discrimination.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989.

Sec. 160.007. PROSPECTIVE APPLICATION OF CHAPTER AND AMENDED ORDER. (a) This Act applies only to a grievance based on events that occur on or after June 20, 1987.

(b) If the commissioners court amends an order adopted under this chapter, the amended order does not apply to a grievance alleged to have occurred before the date of the amended order.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 39(a), eff. Aug. 28, 1989.

CHAPTER 161. COUNTY ETHICS COMMISSION IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 161.001. APPLICABILITY OF CHAPTER. This chapter applies only to:

(1) a county that:

(A) contains a municipality that has a population of 500,000 or more;

(B) is located on the international border; and

(C) before September 1, 2009, had a county ethics board appointed by the commissioners court;

(2) a county that:

(A) has a population of 425,000 or more;

(B) is adjacent to a county with a population of 3.3 million or more; and

(C) contains a portion of the San Jacinto River; and

(3) a county that has a population of less than 50,000 that is adjacent to a county with a population of more than 3.3 million.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 75, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1070 (H.B. 1495), Sec. 4, eff. June 14, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 137, eff. September 1, 2023.

Sec. 161.002. DEFINITIONS. In this chapter:

(1) "Commission" means a county ethics commission created under this chapter.

(2) "Commission staff" means county employees assigned to provide administrative support to the commission.

(3) "Communicates directly with" has the meaning assigned by Section 305.002, Government Code.

(4) "County affiliate" means a person described and determined by order of the commissioners court on recommendation of

the commission. As determined by the commissioners court, the term includes:

(A) any person whose goods and services are purchased under the terms of a purchase order or contractual agreement with the county; and

(B) as determined by the county, any other persons doing business with the county.

(5) "County employee" means a person employed by the county or a county officer and includes a person employed in the judicial branch of the county government who is not subject to the Code of Judicial Conduct. The term does not include a county officer.

(6) "County office" means a position held by a county officer.

(7) "County officer" means a county judge, county commissioner, county attorney, sheriff, county tax assessor-collector, county clerk, district clerk, county treasurer, county auditor, county purchasing agent, and constable.

(8) "County public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for or assumed the duties of office:

(A) a county officer or county employee;

(B) a person appointed by the commissioners court or a county officer to a position on one of the following, whether the position is compensated or not:

(i) an authority, board, bureau, commission, committee, council, department, district, division, or office of the county; or

(ii) a multi-jurisdictional board;

(C) an attorney at law or notary public when participating in the performance of a governmental function;

(D) a candidate for nomination or election to an elected county office; or

(E) a person who is performing a governmental function under a claim of right although the person is not legally qualified or authorized to do so.

(9) "Lobbyist" means a person who, for compensation in excess of an amount established by the commission, communicates directly with a county officer or county employee to influence official action. The term does not include an attorney who

communicates directly with a county officer or county employee to the extent that such communication relates to the attorney's representation of a party in a civil or criminal proceeding.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.003. CONFLICT WITH CIVIL SERVICE AGREEMENT. (a) This chapter may not be construed to affect:

(1) the terms of an agreement authorized by Chapter 174 between the county and county employees; or

(2) any provision of a civil service statute applicable to a county employee.

(b) If an agreement authorized by Chapter 174 or a civil service statute applicable to a county employee conflicts with this chapter or an ethics code adopted or enforced under this chapter, the agreement or civil service statute prevails.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

SUBCHAPTER B. CREATION OF COMMISSION; APPOINTMENT OF COMMISSION MEMBERS

Sec. 161.051. CREATION OF COMMISSION BY ORDER. (a) The commissioners court of a county, by an order adopted by a majority of the court's full membership, may create a county ethics commission.

(b) A copy of an order adopted under this section shall be placed in the minutes of the court's proceedings. The copy of the order is public information.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.052. CREATION OF COMMISSION BY ELECTION. (a) A county ethics commission may be created by approval of the system by a majority of the qualified voters of the county voting at an election called for that purpose.

(b) The commissioners court by order may call an election on

the question of the creation of a county ethics commission.

(c) The commissioners court shall hold the election called under this section on the first authorized uniform election date prescribed by Chapter 41, Election Code, that allows sufficient time for publication of the notice required by Subsection (d) and for compliance with any other requirements established by law.

(d) In addition to the notice required by Chapter 4, Election Code, the commissioners court must publish in a newspaper of general circulation in the county, and on the home page of the county's Internet website, a substantial copy of the order calling the election. The first newspaper publication must be made on or before the 15th day before the date of the election and continue once a week for two consecutive weeks, and the notice on the county's Internet website shall remain on the home page each day beginning not later than the 16th day before the election and ending on the date of the election.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.053. BALLOT. The commissioners court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Creation of a county ethics commission."

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.054. RESULT OF ELECTION. If the proposition is approved, the commissioners court shall declare the result and by order create the county ethics commission. A copy of the order creating the commission shall be placed in the minutes of the court's proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.055. APPOINTMENT OF COMMISSION. (a) The commission is composed of:

(1) five members, each of whom is appointed by the county judge or a county commissioner; and

(2) five members appointed by the commissioners court, with one member appointed from a list of nominees submitted by each of the following entities:

(A) the county civil service commission;

(B) a bar association in the county;

(C) the sheriff's civil service commission;

(D) a dispute resolution center in the county that is affiliated with a council of governments; and

(E) a human resources management association in the county.

(a-1) The commissioners court shall designate the entities described by Subsections (a)(2)(B), (D), and (E) that may submit nominees for membership on the commission. If a designated entity does not wish to submit nominees, the commissioners court shall select a similar entity that has experience with grievance or mediation structures or processes.

(b) Not later than the 60th day after the date of the order creating the commission as provided in Section 161.051 or Section 161.054:

(1) the county judge and each county commissioner shall each appoint one member of the commission; and

(2) each entity described by Subsection (a)(2) or alternate entity designated under Subsection (a-1) shall deliver to the commissioners court the entity's nominees for membership on the commission.

(c) The commissioners court shall set the date for the first meeting of the initial members. The first meeting must be set not earlier than the 60th day after the date of the order creating the commission and not later than the 90th day after the date of that order.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.056. ELIGIBILITY. (a) To be eligible for appointment to the commission, a person must:

(1) be at least 18 years old;

(2) be a property taxpayer in the county; and

(3) have resided in the county for the two years immediately preceding the date on which the person's term will begin.

(b) A person is not eligible for appointment to the commission if the person is:

(1) an elected officer;

(2) a county employee;

(3) a county affiliate;

(4) a person employed as a lobbyist;

(5) a person convicted of a misdemeanor involving moral turpitude or a felony; or

(6) a person who is delinquent in payment of local, state, or federal taxes.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.057. TERMS. (a) Members of the commission serve terms of two years. Members appointed as provided by Section 161.055(a)(1) serve terms beginning on February 1 of each odd-numbered year. Members appointed as provided by Section 161.055(a)(2) serve terms beginning on February 1 of each even-numbered year.

(b) A member may serve more than one term.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 1, eff. September 1, 2011.

Sec. 161.058. VACANCIES. (a) A vacancy on the commission shall be filled for the remainder of the unexpired term as follows:

(1) if the vacancy involves a member appointed by the county judge or a county commissioner, the vacancy is filled, except as provided by Subsection (b), by appointment of that officer or the officer's successor in office; or

(2) if the vacancy involves a member appointed under Section 161.055(a)(2), the vacancy is filled as provided by that

section for an appointment to a full term.

(b) If the county judge or county commissioner, as applicable, does not fill the vacancy before the 60th day after the date the position becomes vacant, the commission may fill the vacancy by a majority vote of the remaining members.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.059. MEETINGS. (a) The commission shall meet on a regular basis.

(b) The commission is a governmental body for purposes of Chapter 551, Government Code.

(c) Except as otherwise provided by this chapter, a majority of the commission constitutes a quorum.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.0591. CHAIR. (a) The position of chair is selected from the commission members by a majority vote of the commission members. The chair serves a term of six months.

(b) The member serving as chair may not vote on a matter before the commission except to break a tie vote.

(c) A commission member may decline to serve as chair.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 2, eff. September 1, 2011.

Sec. 161.060. REMOVAL OF COMMISSION MEMBER. A member of the commission is a county officer described by Section 87.012(15) and may be removed as provided by Chapter 87 if, after a trial, the jury finds good cause for removal, including:

(1) failure to pay local, state, or federal taxes when due;

(2) violation of the ethics code adopted by the commission;

(3) conviction of a felony or misdemeanor;

(4) excessive absenteeism as determined by the commission; and

(5) official misconduct.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.061. LEGAL REPRESENTATION. The county attorney, or district attorney, or criminal district attorney, as appropriate, with the duty to represent the county in civil matters shall represent the commission in all legal matters.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

SUBCHAPTER C. POWERS

Sec. 161.101. GENERAL POWERS. (a) The commission shall adopt, publish, and enforce an ethics code governing county public servants.

(b) The commission may adopt or use as a guide any ethics law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this chapter and serves the needs of the county. For purposes of Section 161.002(9), in determining the applicable amount of compensation of a person who communicates directly with a county officer or employee to influence official action and engages in such communication as part of the person's regular employment, the commission shall adopt rules that are substantially similar to the rules or interpretations of the Texas Ethics Commission under Chapter 305, Government Code, to calculate the compensation.

(c) The commission may adopt bylaws, rules, forms, policies, or procedures to assist in the administration of the commission's duties under this chapter. The commission may be guided by Robert's Rules of Order to the extent that it does not conflict with the constitution and laws of the United States and this state or conflict with other guidelines adopted by the commission.

(d) The commission shall be assigned staff by the county and provided access to county resources to assist in its duties.

(e) The commission shall develop and implement policies that

provide the public with information on the commission and the ethics code.

(f) The commission shall enforce the provisions of the ethics code by issuing appropriate orders or recommendations or by imposing appropriate penalties.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.102. ADVISORY OPINIONS. On the request of any person covered by the ethics code adopted by the commission, the commission may issue a written ethics advisory opinion regarding the application of the ethics code to a specified existing or hypothetical factual situation. The commission may not issue an opinion that includes the name of any person who may be affected by the opinion. The name of the person requesting the opinion shall be deemed confidential.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.103. PUBLIC INTEREST INFORMATION. (a) The commission shall develop plain-language materials as described by this section. The commission shall post the information on the county's Internet website and make the information otherwise available to the public.

(b) The materials must include:

(1) a description of:

(A) the commission's responsibilities;

(B) the types of conduct that constitute a violation of the ethics code adopted by the commission;

(C) the types of sanctions the commission may impose;

(D) the commission's policies and procedures relating to complaint investigation and resolution; and

(E) the duties of a person filing a complaint with the commission; and

(2) a diagram showing the basic steps in the commission's procedures relating to complaint investigation and resolution.

(c) The commission shall provide the materials described by this section to each complainant and respondent.

(d) The commission shall adopt a policy to effectively

distribute materials as required by this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.104. COMMISSION MEMBER EDUCATION AND TRAINING. (a) Not later than the 30th day after the date a person is appointed to the commission, the person must complete training on the following matters:

(1) the legislation that created the commission;

(2) the role and functions of the commission; and

(3) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code; and

(C) other laws relating to public officials, including conflict-of-interest laws.

(b) A member of the commission must complete subsequent training programs on the following matters:

(1) the ethics code adopted by the commission; and

(2) the procedural rules adopted by the commission.

(c) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission after the 30th day after the date the person is appointed to the commission unless the person has completed a training program as required by Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 3, eff. September 1, 2011.

Sec. 161.105. EDUCATION AND TRAINING FOR PERSONS COVERED BY ETHICS CODE. (a) The commission and commission staff shall make available periodic training for persons covered by the ethics code adopted by the commission.

(b) The training program must provide information regarding:

(1) the ethics code;

(2) the role and functions of the commission; and

(3) plain-language materials as further described by Section 161.103.

(c) In addition to the qualifications under Subchapter C, Chapter 262, before submitting a bid, responding to a request for qualifications or proposals, or otherwise contracting with the county, an officer, principal, or other person with the authority to bind the vendor shall complete training on the ethics code.

(d) A lobbyist intending to meet with a person covered by the ethics code shall complete training on the ethics code.

(e) A person covered by the ethics code or a lobbyist or vendor required by this section to complete training must complete the training as determined by the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 4, eff. September 1, 2011.

Sec. 161.106. CERTAIN DISCUSSIONS OF PENDING COMPLAINTS PROHIBITED. Until a sworn complaint alleging a violation of the ethics code is resolved, a member of the commission may not discuss the complaint with a member of the commissioners court.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.107. DISCLOSURE OF CERTAIN CONTRACTS. (a) The commission shall prominently display on the county's Internet website the following regarding contracts for services executed by the county that would require a person to register as a lobbyist under Chapter 305, Government Code:

(1) the execution dates;

(2) the contract duration terms, including any extension options;

(3) the effective dates;

(4) the final amount of money the county paid in the previous fiscal year;

(5) the identity of all parties to the contract;

(6) the identity of all subcontractors in the contract; and

(7) the legislative agenda of the county.

(b) In lieu of displaying the items described by Subsections (a)(1)-(6) regarding a contract for services that would require a person to register as a lobbyist under Chapter 305, Government Code, the commission may post on the county's Internet website the contract executed by the county for those services.

(c) Information required to be displayed on a county's Internet website under this section is public information subject to disclosure under Chapter 552, Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1070 (H.B. 1495), Sec. 5, eff. June 14, 2019.

SUBCHAPTER D. COMPLAINT PROCEDURES AND HEARINGS

Sec. 161.151. DEFINITIONS. In this subchapter:

(1) "Category One violation" means a violation of the ethics code adopted by the commission as to which it is generally not difficult to ascertain whether the violation occurred or did not occur, including:

(A) the failure by a person required to file a statement or report required under the ethics code to:

(i) file the statement or report in a manner that complies with applicable requirements; or

(ii) file the statement or report in a timely manner;

(B) a misrepresentation in a report required under the ethics code; or

(C) a failure to respond in a timely manner to a written notice under Section 161.156(b).

(2) "Category Two violation" means a violation of the ethics code adopted by the commission that is not a Category One violation.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.152. COMPLAINT PROCEDURES AND HEARINGS. The commission shall adopt the complaint procedures and hearings set forth in this subchapter. The commission may adopt additional procedures not in conflict with this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.153. HEARINGS AND SETTLEMENT. (a) The commission may:

(1) hold a hearing on a sworn complaint and render a decision on a complaint or report of a violation as provided by this chapter; and

(2) agree to the settlement of issues.

(b) The commission may not:

(1) consider a complaint or vote to investigate a matter outside the commission's jurisdiction; or

(2) investigate any matter except in response to a sworn complaint.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.154. CATEGORIZATION OF VIOLATIONS. An allegation of a violation listed as a Category One violation shall be treated as a Category Two violation if the commission at any time determines that:

(1) the allegation arises out of the same set of facts as those that give rise to an allegation of a Category Two violation, and the interests of justice or efficiency require resolution of the allegations together; or

(2) the facts and law related to a particular allegation or a defense to the allegation present a level of complexity that prevents resolution through the preliminary review procedures for Category One violations prescribed by Section 161.159(a).

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.155. FILING OF COMPLAINT; CONTENTS. (a) An individual may file with the commission a sworn complaint, on a form prescribed by the commission, alleging that a person subject to the ethics code has violated the ethics code. The commission shall make the complaint form available on the county website.

(b) A complaint filed under this section must be in writing and under oath and must set forth in simple, concise, and direct statements:

(1) the name of the complainant;

(2) the street or mailing address of the complainant;

(3) the name of each respondent;

(4) the position or title of each respondent;

(5) the nature of the alleged violation, including if possible the specific rule or provision of the ethics code alleged to have been violated;

(6) a statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and

(7) all documents or other material available to the complainant that are relevant to the allegation, a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation but that are not in the possession of the complainant, including the location of the documents, if known, and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the complaint, including the location of the documents, if known.

(c) The complaint must be accompanied by an affidavit stating either that the information contained in the complaint is correct or that the complainant has good reason to believe and does believe that the violation occurred. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public or other authorized official.

(d) The complaint must state on its face an allegation that, if true, constitutes a violation of the ethics code.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.1551. STANDING PRELIMINARY REVIEW COMMITTEE. (a) The standing preliminary review committee shall perform the actions prescribed by this subchapter in conducting a preliminary review of each sworn complaint filed with the commission.

(b) The standing preliminary review committee consists of three persons, as follows:

(1) two members of the commission, determined as provided by Subsection (c); and

(2) a review officer selected and retained by the commission.

(c) The initial standing preliminary review committee consists of one commission member, chosen by lot, from the members of the commission appointed under Section 161.055(a)(1), and one commission member, chosen by lot, from the members appointed under Section 161.055(a)(2).

(d) A commission member serves on the standing preliminary review committee for six months. After the end of a commission member term on the standing preliminary review committee, service on the committee rotates so that each position on the commission serves on the committee, beginning with the initial members of the standing preliminary review committee chosen under Subsection (c) and succeeded by the next member on the list as described below:

(1) for the rotation of members appointed under Section 161.055(a)(1), the order of service is the member appointed by the county judge, followed by the members appointed by the county commissioners in order of precinct number; and

(2) for the rotation of members appointed under Section 161.055(a)(2), the order of service is the order listed by that section.

(e) The review officer must be a practicing attorney or former judge. A commission member may serve as the review officer.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 75 (S.B. 334), Sec. 1, eff. May 18, 2013.

Sec. 161.156. PROCESSING OF COMPLAINT. (a) The standing preliminary review committee shall determine whether a sworn complaint filed with the commission complies with the form requirements of Section 161.155.

(b) Not later than the 14th day after the date a complaint is filed, the standing preliminary review committee shall send written notice to the complainant and the respondent. The notice must state whether the complaint complies with the form requirements of Section 161.155 and include the information required by Section 161.158(c).

(c) If the standing preliminary review committee determines that the complaint does not comply with the form requirements, the committee shall send the complaint to the complainant with the written notice, a statement explaining how the complaint fails to comply, and a copy of the rules for filing sworn complaints. The complainant may resubmit the complaint not later than the 14th day after the date the notice under Subsection (b) is mailed. If the standing preliminary review committee determines that the complaint is not resubmitted within the 14-day period, the committee shall:

(1) dismiss the complaint; and

(2) not later than the 14th day after the date of the dismissal, send written notice to the complainant and the respondent of the dismissal and the grounds for dismissal.

(d) If the standing preliminary review committee determines that a complaint is resubmitted under Subsection (c) within the 14-day period but is not in proper form, the committee shall send the notice required under Subsection (c), and the complainant may resubmit the complaint under that subsection.

(e) If the standing preliminary review committee determines that a complaint returned to the complainant under Subsection (c) or (d) is resubmitted within the 14-day period and that the complaint complies with the form requirements, the committee shall send the written notice under Subsection (b).

(f) If a complaint filed with the commission is within the jurisdiction of the commission but may also be brought under the provisions of a collective bargaining agreement authorized by Chapter 174, a civil service rule under Section 158.0025, or a rule of the sheriff's department, the commission shall defer jurisdiction over the complaint to the sheriff for disposition. The sheriff may return a complaint deferred under this subsection to the commission for additional proceedings as the commission determines appropriate if

the sheriff determines that the conduct alleged in the complaint is not within the scope of the collective bargaining agreement, civil service rule, or sheriff's department rule. The sheriff may not return a complaint deferred under this section if:

(1) the sheriff disciplines the employee under the collective bargaining agreement, civil service rule, or sheriff's department rule for the conduct alleged in the sworn complaint; or

(2) the sheriff determines that the employee did not commit the conduct alleged in the sworn complaint.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 6, eff. September 1, 2011.

Sec. 161.157. RETALIATION AGAINST COUNTY EMPLOYEE REPORTING VIOLATION OF ETHICS CODE PROHIBITED. (a) A county public servant may not suspend or terminate the employment of or take other adverse action against a county employee who in good faith files a complaint or otherwise reports to the commission, commission staff, or another law enforcement authority a violation of the ethics code by a person subject to the ethics code.

(b) A county public servant may not suspend or terminate the employment of or take other adverse action against a county employee who in good faith participates in the complaint processing, preliminary review, hearing, or any other aspect of the investigation and resolution by the commission of an alleged violation of the ethics code by a person subject to the ethics code.

(c) A commission created by a county under this chapter is a part of the "local governmental entity" for purposes of Section 554.002, Government Code.

(d) An ethics code adopted by a commission pursuant to this chapter is a "law" as defined by Section 554.001, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 7, eff. September 1, 2011.

Sec. 161.158. PRELIMINARY REVIEW: INITIATION. (a) The standing preliminary review committee shall promptly conduct a preliminary review on receipt of a written complaint that is in compliance with the form requirements of Section 161.155.

(b) The standing preliminary review committee shall determine in writing whether the commission has jurisdiction over the violation of the ethics code provision alleged in a sworn complaint processed under Section 161.156.

(c) If the standing preliminary review committee determines that the commission has jurisdiction, the committee shall issue a notice under Section 161.156(b) that must include:

(1) a statement that the commission has jurisdiction over the violation alleged in the complaint;

(2) a statement of whether the complaint will be processed as a Category One violation or a Category Two violation, subject to reconsideration as provided for by Section 161.154;

(3) the date by which the respondent is required to respond to the notice;

(4) a copy of the complaint and the rules of procedure of the commission;

(5) a statement of the rights of the respondent;

(6) a statement inviting the respondent to provide to the commission any information relevant to the complaint; and

(7) a statement that a failure to timely respond to the notice will be treated as a separate violation.

(d) If the standing preliminary review committee determines that the commission does not have jurisdiction over the violation alleged in the complaint, the committee shall:

(1) dismiss the complaint; and

(2) not later than the 14th day after the date of the dismissal, send to the complainant and the respondent written notice of the dismissal and the grounds for the dismissal.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 8, eff. September 1, 2011.

Sec. 161.159. PRELIMINARY REVIEW: RESPONSE BY RESPONDENT. (a) If the alleged violation is a Category One violation:

(1) the respondent must respond to the notice required by Section 161.156(b) not later than the 14th day after the date the respondent receives the notice; and

(2) if the matter is not resolved by agreement between the standing preliminary review committee and the respondent before the 30th day after the date the committee receives the respondent's response to the notice given under Section 161.156(b), the committee shall set the matter for a preliminary review hearing to be held at the next committee meeting.

(b) If the alleged violation is a Category Two violation:

(1) the respondent must respond to the notice required by Section 161.156(b) not later than the 14th day after the date the respondent receives the notice under Section 161.156(b); and

(2) if the matter is not resolved by agreement between the standing preliminary review committee and the respondent before the 30th day after the date the committee receives the respondent's response to the notice given under Section 161.156(b), the committee shall set the matter for a preliminary review hearing to be held at the next committee meeting.

(c) A respondent's failure to timely respond as required by Subsection (a)(1) or (b)(1) is a Category One violation.

(d) The response required by Subsection (a) or (b) must include any challenge the respondent seeks to raise to the commission's exercise of jurisdiction. In addition, the respondent may:

(1) acknowledge the occurrence or commission of a violation;

(2) deny the allegations contained in the complaint and provide evidence supporting the denial; or

(3) agree to enter into an assurance of voluntary compliance or other agreed order, which may include an agreement to immediately cease and desist.

(e) If the standing preliminary review committee sets the matter for a preliminary review hearing, the committee shall promptly send to the complainant and the respondent written notice of the date, time, and place of the preliminary review hearing.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 9, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 75 (S.B. 334), Sec. 2, eff. May 18, 2013.

Sec. 161.160. PRELIMINARY REVIEW: WRITTEN QUESTIONS. During a preliminary review, the commission staff may submit to the complainant or respondent written questions reasonably intended to lead to the discovery of matters relevant to the investigation.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.161. PRELIMINARY REVIEW AND PRELIMINARY REVIEW PROCEDURES. The commission shall adopt procedures for the conduct of preliminary reviews and preliminary review hearings. The procedures must include:

(1) a reasonable time for responding to questions submitted by the commission and commission staff and subpoenas issued by the commission; and

(2) the tolling or extension of otherwise applicable deadlines where:

(A) the commission issues a subpoena and the standing preliminary review committee's meeting schedule makes it impossible both to provide a reasonable time for response and to comply with the otherwise applicable deadlines; or

(B) the commission determines that, despite the standing preliminary review committee's diligence and the reasonable cooperation of the respondent, a matter is too complex to resolve within the otherwise applicable deadlines without compromising either the committee's investigation or the rights of the respondent.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.162. PRELIMINARY REVIEW HEARING: PROCEDURE. (a) The standing preliminary review committee shall conduct a preliminary review hearing if:

(1) following the preliminary review, the standing preliminary review committee and the respondent cannot agree to the disposition of the complaint; or

(2) the respondent in writing requests a hearing.

(b) The standing preliminary review committee shall provide written notice to the complainant and the respondent of the date, time, and place the committee will conduct the preliminary review hearing.

(c) At or after the time the standing preliminary review committee provides notice of a preliminary review hearing, the committee may submit to the complainant and the respondent written questions and require those questions to be answered under oath within a reasonable time. After receiving answers to any questions submitted to the complainant under this subsection and before the preliminary review hearing, the committee shall provide the respondent both the questions and the answers to the questions submitted by the complainant. This subsection may not be construed to require a person to give evidence that violates the person's right against self-incrimination under the United States Constitution or the Texas Constitution.

(d) On the request of the respondent, the standing preliminary review committee shall request that any information in the possession or control of the complainant, including exculpatory information, that is directly related to the complaint be provided the respondent and the committee.

(e) During a preliminary review hearing, the standing preliminary review committee:

(1) may consider all submitted evidence related to the complaint;

(2) may review any documents or material related to the complaint; and

(3) shall determine whether there is credible evidence that provides cause for the committee to conclude that a violation within the jurisdiction of the commission has occurred.

(f) During a preliminary review hearing, the respondent may appear before the standing preliminary review committee with the assistance of counsel, if desired by the respondent, and present any

relevant evidence, including a written statement.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.163. PRELIMINARY REVIEW HEARING: RESOLUTION. (a) As soon as practicable after the completion of a preliminary review hearing, the standing preliminary review committee by vote shall issue a decision stating:

(1) whether there is credible evidence for the committee to determine that a violation within the jurisdiction of the commission has occurred and whether the violation is technical or de minimis; or

(2) that there is insufficient evidence for the committee to determine whether a violation within the jurisdiction of the commission has occurred.

(b) If the standing preliminary review committee determines that there is credible evidence for the committee to determine that a violation has occurred, the committee shall resolve and settle the complaint to the extent possible. If the committee successfully resolves and settles the complaint, not later than the 14th day after the date of the final resolution of the complaint, the committee shall send to the complainant and the respondent a copy of the order stating the committee's determination and written notice of the resolution and the terms of the resolution. If the committee is unsuccessful in resolving and settling the complaint, the committee shall:

(1) order a formal hearing to be held in accordance with Sections 161.164-161.167; and

(2) not later than the 14th day after the date of the order, send to the complainant and the respondent:

(A) a copy of the order;

(B) written notice of the date, time, and place of the formal hearing;

(C) a statement of the nature of the alleged violation;

(D) a description of the evidence of the alleged violation;

(E) a copy of the complaint;

(F) a copy of the commission's rules of procedure; and

(G) a statement of the rights of the respondent.

(c) If the standing preliminary review committee determines that there is credible evidence for the committee to determine that a violation within the jurisdiction of the commission has not occurred, the committee shall:

(1) dismiss the complaint; and

(2) not later than the 10th day after the date of the dismissal, send to the complainant and the respondent a copy of the order stating the committee's determination and written notice of the dismissal and the grounds for dismissal.

(d) If the standing preliminary review committee determines that there is insufficient credible evidence for the committee to determine that a violation within the jurisdiction of the commission has occurred, the commission may dismiss the complaint or order a formal hearing under Sections 161.164-161.167. Not later than the 10th day after the date of the committee's determination under this subsection, the committee shall send to the complainant and the respondent a copy of the decision stating the committee's determination and written notice of the grounds for the determination.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 10, eff. September 1, 2011.

Sec. 161.164. FORMAL HEARING: STANDARD OF EVIDENCE. During a formal hearing, the commission shall determine by a preponderance of the evidence whether a violation within the jurisdiction of the commission has occurred.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.165. FORMAL HEARING: SUBPOENAS AND WITNESSES. (a) A subpoena or other request to testify shall be served sufficiently in advance of the scheduled appearance at a formal hearing to allow a reasonable period, as determined by the commission, for the person subpoenaed to prepare for the hearing and to employ counsel if

desired.

(b) Except as provided by Section 161.166(a)(1), the commission may order that a person may not, except as specifically authorized by the presiding officer, make public the name of a witness subpoenaed by the commission before the date of that witness's scheduled appearance.

(c) A witness may read a written statement or present a brief oral opening statement at a formal hearing, subject to the rules of evidence applicable to a contested case under Section 2001.081, Government Code.

(d) A person whose name is mentioned or who is identified or referred to in testimony or in statements made by a commission member, commission staff member, or witness and who reasonably believes that the statement tends to adversely affect the person's reputation may:

(1) request to appear personally before the commission to testify in the person's own behalf; or

(2) file a sworn statement of facts relevant to the testimony or statement that the person believes adversely affects the person's reputation.

(e) A witness who testifies at a formal hearing must be sworn.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.166. FORMAL HEARING: PROCEDURE. (a) Not later than the 10th day before the date of a scheduled formal hearing or on the granting of a motion for discovery by the respondent, the commission shall provide to the respondent:

(1) a list of proposed witnesses to be called at the hearing;

(2) copies of all documents expected to be introduced as exhibits at the hearing; and

(3) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(b) The respondent may not be compelled to give evidence or testimony that violates the respondent's right against self-incrimination under the United States Constitution or the Texas Constitution.

(c) The commission shall adopt rules governing discovery, hearings, and related procedures consistent with this chapter and Chapter 2001, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 11, eff. September 1, 2011.

Sec. 161.167. FORMAL HEARING: RESOLUTION. (a) At the conclusion of the formal hearing or not later than the 40th day after the date of the formal hearing, the commission may convene a meeting and by motion shall issue:

(1) a final decision stating the resolution of the formal hearing; and

(2) a written report stating the commission's findings of fact, conclusions of law, and recommendation of imposition of a civil penalty, if any.

(b) Six members of the commission are required for a quorum at a formal hearing.

(c) Not later than the 14th day after the date the commission issues the final decision and written report, the commission shall:

(1) send a copy of the decision and report to the complainant and to the respondent; and

(2) make a copy of the decision and report available to the public during reasonable business hours.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 12, eff. September 1, 2011.

Sec. 161.168. STATUS OF COMPLAINT. (a) The commission shall keep an information file about each sworn or other complaint filed with the commission. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) In addition to the notice required by Sections 161.156 and 161.167, the commission, at least quarterly until final disposition of a complaint, shall notify the person who filed the complaint and each person who is a subject of the complaint of the status of the sworn complaint.

(d) The commission shall resolve a complaint within three months of its receipt unless it makes a determination that additional time is required to resolve the matter. On a determination that additional time is required, the commission may extend the investigation in three-month increments. Each extension requires separate approval by the commission.

(e) If the commission does not resolve the matter within three months or within an authorized extension, the complaint shall be deemed to have been dismissed without prejudice.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 13, eff. September 1, 2011.

Sec. 161.169. EXTENSION OF DEADLINE. The commission may, on its own motion or on the reasonable request of a respondent, extend any deadline for action relating to a sworn complaint, preliminary review hearing, or formal hearing.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.170. SUBPOENA. (a) In connection with a formal hearing, the commission, as authorized by this chapter, may subpoena and examine witnesses and documents that directly relate to a sworn complaint.

(b) In connection with a preliminary review, the commission, for good cause and as authorized by this chapter, may subpoena documents and witnesses on application by the commission staff and a motion adopted by a vote of at least five members of the commission, for the purpose of attempting to obtain from the documents or witnesses specifically identified information, if the commission reasonably believes that the specifically identified information:

(1) is likely to be determinative as to whether the subject of an investigation has violated a provision of the ethics code;

(2) can be determined from the documents or is known by the witnesses; and

(3) is not reasonably available through a less intrusive means.

(c) The commission shall adopt procedures for the issuance of subpoenas under this section.

(d) Section 2001.089, Government Code, applies to a subpoena issued under this subchapter. On the request of the respondent, the commission shall subpoena any information in the possession or control of any person identified in the request, including exculpatory information, that is directly related to the complaint and provide the information to the respondent.

(e) A copy of a subpoena issued under this section must be delivered to the respondent.

(f) At the written request of at least five members of the commission, a peace officer shall serve a subpoena of the commission in the manner prescribed for service of a district court subpoena.

(g) If a person to whom a subpoena is directed refuses to appear, refuses to answer inquiries, or fails or refuses to produce books, records, or other documents that were under the person's control when the demand was made, the commission shall report that fact to a district court in the county. The district court shall enforce the subpoena by attachment proceedings for contempt in the same manner as the court enforces a subpoena issued by the court.

(h) A respondent has the right to quash a subpoena in a

district court in the county as provided by law.

(i) A subpoenaed witness who attends a commission hearing is entitled to the same mileage and per diem payments as a witness who appears before a grand jury. A person who provides subpoenaed documents to the commission is entitled to reimbursement from the commission for the person's reasonable cost of producing the documents.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.171. STATUS OF COMPLAINANT. The complainant is not a party to a preliminary review, preliminary review hearing, or formal hearing under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.172. APPLICABILITY OF OTHER ACTS. (a) Except as provided by Section 161.173(b), Chapter 552, Government Code, does not apply to documents or any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint.

(b) Chapter 551, Government Code, does not apply to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint, but does apply to the conduct of a formal hearing under Sections 161.164-161.167. Chapter 551, Government Code, does not apply to the deliberation by the commission regarding a contested complaint following the conclusion of a formal hearing, but does apply to the meeting at which the commission issues a final decision stating the resolution of the final hearing.

(c) Subchapters C-H, Chapter 2001, Government Code, apply only to a formal hearing under this subchapter, the resolution of a formal hearing, and the appeal of a final order of the commission, and only to the extent consistent with this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 14, eff. September 1, 2011.

Sec. 161.173. CONFIDENTIALITY; OFFENSE. (a) Except as provided by Subsection (b), (c), or (m), proceedings at a preliminary review hearing performed by the standing preliminary review committee, a sworn complaint, and documents and any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint are confidential and may not be disclosed unless entered into the record of a formal hearing or a judicial proceeding, except that a document or statement that was previously public information remains public information.

(b) An order issued by the standing preliminary review committee after the completion of a preliminary review or hearing determining that a violation other than a technical or de minimis violation has occurred is not confidential.

(c) Commission staff may, for the purpose of investigating a sworn complaint, disclose to the complainant, the respondent, or a witness information that is otherwise confidential and relates to the sworn complaint if:

(1) the employee makes a good faith determination that the disclosure is necessary to conduct the investigation;

(2) the employee's determination under Subdivision (1) is objectively reasonable;

(3) the commission specifically authorizes the disclosure; and

(4) the employee discloses only the information necessary to conduct the investigation.

(d) A person commits an offense if the person intentionally:

(1) destroys, mutilates, or alters information obtained under this chapter; or

(2) removes information obtained under this chapter without permission as provided by this chapter.

(e) An offense under Subsection (d) is a misdemeanor punishable by:

(1) a fine of not less than $25 or more than $4,000;

(2) confinement in the county jail for not less than three days or more than three months; or

(3) both the fine and confinement.

(f) A person commits an offense if the person distributes information considered confidential under the terms of this chapter.

(g) A person who obtains access to confidential information under this chapter commits an offense if that person knowingly:

(1) uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to this chapter, including solicitation of political contributions or solicitation of clients;

(2) permits inspection of the confidential information by a person who is not authorized to inspect the information; or

(3) discloses the confidential information to a person who is not authorized to receive the information.

(h) An offense under Subsection (f) or (g) is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(i) If conduct that constitutes an offense under this section also constitutes an offense under the Penal Code, including under Section 37.10 or 39.06 of that code, the person may be prosecuted under this section or the Penal Code, as applicable.

(j) A violation under this section constitutes official misconduct.

(k) In addition to other penalties, the respondent may commence a civil action for damages on the respondent's own behalf against any person who is alleged to have disclosed information made confidential by this subchapter. Any action under this chapter must be brought in a district court in the county. The court may award costs and attorney's fees.

(l) A county employee is subject to discipline, including termination of employment, for disclosing confidential information under this chapter.

(m) The commission may disclose confidential information in making a referral to a prosecuting attorney concerning an offense under this section.

(n) A county employee who discloses confidential information in compliance with Subsection (c) or (m) is not subject to Subsections (d)-(l).

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 15, eff. September 1, 2011.

Sec. 161.174. AVAILABILITY OF COMMISSION ORDERS ON INTERNET. (a) As soon as practicable following a preliminary review, preliminary review hearing, or formal hearing at which the commission determines that a person has committed a violation within the commission's jurisdiction, the commission shall make available on the Internet:

(1) a copy of the commission's order stating the determination; or

(2) a summary of the commission's order.

(b) This section does not apply to a determination of a violation that is technical or de minimis.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

SUBCHAPTER E. ENFORCEMENT

Sec. 161.201. ORDER. The commission may:

(1) issue and enforce a cease and desist order to stop a violation;

(2) issue an affirmative order to require compliance with the laws administered and enforced by the commission; and

(3) issue an order of public censure with or without a civil penalty imposed under Section 161.202.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.202. CIVIL PENALTY FOR DELAY OR VIOLATION. (a) The commission may impose a civil penalty of not more than $500 for each delay in complying with a commission order.

(b) The commission may impose a civil penalty of not more than $4,000 for a violation of the ethics code adopted by the commission.

(c) A penalty paid under this section shall be deposited to the credit of the general fund of the county.

(d) This section is cumulative of any other available sanctions under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.203. WAIVER OR REDUCTION OF PENALTY. (a) A person may request the waiver or reduction of a civil penalty by submitting an affidavit to the commission that states the filer's reasons for requesting a waiver or reduction.

(b) The commission may waive or reduce a civil penalty if the commission finds that a waiver or reduction is in the public interest and in the interest of justice. The commission shall consider the following before acting to waive or reduce a civil penalty:

(1) the facts and circumstances supporting the person's request for a waiver or reduction;

(2) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation, and the amount of the penalty;

(3) any history of previous violations by the person;

(4) the demonstrated good faith of the person, including actions taken to rectify the consequences of the violation;

(5) the penalty necessary to deter future violations; and

(6) any other matter that justice may require.

(c) After hearing the waiver request, the commission may affirm, reduce, or waive the civil penalty.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.204. NOTIFICATION OF REGULATORY OR SUPERVISORY ENTITY. The commission may notify the appropriate regulatory or supervisory entity, including any agency, the State Commission on Judicial Conduct, or the State Bar of Texas, of a violation of the ethics code adopted by the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff.

September 1, 2009.

Sec. 161.205. CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH COMPLAINT. (a) The commission may impose a civil penalty of not more than $4,000 for the filing of a frivolous or bad-faith complaint. In this subsection, "frivolous complaint" means a complaint that is groundless and brought in bad faith or is groundless and brought for the purpose of harassment.

(b) In addition to other penalties, the respondent may commence a civil action on the respondent's own behalf against any person who filed a frivolous complaint against the respondent. Any action under this chapter shall be brought in a district court in the county. The court may award costs and attorney's fees.

(c) A person may file a sworn complaint with the commission, in accordance with Section 161.155, alleging that a complaint relating to that person filed with the commission is frivolous or brought in bad faith. A complaint may be filed under this subsection without regard to whether the complaint alleged to be frivolous or brought in bad faith is pending before the commission or has been resolved. The commission shall act on a complaint made under this subsection as provided by Subchapter D.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.206. FACTORS CONSIDERED FOR ASSESSMENT OF SANCTION. The commission shall consider the following factors in assessing a sanction:

(1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;

(2) the history and extent of previous violations;

(3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation;

(4) the penalty necessary to deter future violations; and

(5) any other matters that justice may require.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.207. APPEALS. (a) A respondent may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) An appeal brought under this section is not limited to questions of law, and the substantial evidence rule does not apply. The action shall be determined by trial de novo. The reviewing court shall try all issues of fact and law in the manner applicable to other civil suits in this state but may not admit in evidence the fact of prior action by the commission or the nature of that action, except to the limited extent necessary to show compliance with statutory provisions that vest jurisdiction in the court. A party is entitled, on demand, to a jury determination of any issue of fact on which a jury determination is available in other civil suits in this state.

(c) If the district court renders judgment for the petitioner, and the petitioner is a county employee, the court may order reinstatement of the county employee, payment of back pay, or other appropriate relief.

(d) If the district court renders judgment for the petitioner, the court may order appropriate relief, including costs and attorney's fees.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.208. DELIVERY OF RECORD TO REVIEWING COURT. (a) After service of the petition on the commission and within the time permitted for filing an answer or within additional time allowed by the court, the commission shall send to the reviewing court the original or a certified copy of the entire record of the proceeding under review.

(b) The record shall be filed with the clerk of the court. The record may be shortened by stipulation of all parties to the review proceedings. The court may assess additional costs against a party who unreasonably refuses to stipulate to limit the record, unless the party pays all costs of record preparation.

(c) The court may require or permit later corrections or additions to the record.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff.

September 1, 2009.

Sec. 161.209. COST OF PREPARING COMMISSION RECORD. (a) The commission may require a party who appeals a final decision under Section 161.207 to pay one-half of the cost of preparation of the original or a certified copy of the record of the commission proceeding that is required to be sent to the reviewing court.

(b) A charge imposed under this section is a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.210. COLLECTIONS. The county attorney may collect a fine or other penalty imposed by the commission under this chapter in the same manner as provided for the collection of a debt owed to the county.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

SUBCHAPTER F. DISSOLUTION OF COMMISSION

Sec. 161.301. PETITION FOR DISSOLUTION OF COMMISSION. If, after an ethics commission created pursuant to Section 161.052 has been in effect for at least one year, 10 percent of the qualified voters of the county petition the commissioners court to dissolve the commission, the commissioners court shall call an election to determine whether the commission will be dissolved.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.302. DISSOLUTION ELECTION. (a) An election under this subchapter must be held in the manner provided for an election to create a county ethics commission.

(b) The ballot for the election shall be printed to provide for

voting for or against the proposition: "Dissolution of the county ethics commission."

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.303. DISSOLUTION OF COMMISSION. If the proposition is approved by a majority of the qualified voters voting at the election, the commissioners court shall declare the result and by order dissolve the ethics commission. A copy of the order dissolving the commission shall be placed in the minutes of the court's proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.304. SAVING PROVISIONS. The dissolution of a county ethics commission under this subchapter does not affect:

(1) the prior operation of the ethics code adopted by the commission or any prior action taken under it; or

(2) any penalty, forfeiture, or punishment incurred for a violation of the ethics code before the effective date of the dissolution.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

CHAPTER 170. MISCELLANEOUS PROVISIONS AFFECTING COUNTY OFFICERS AND EMPLOYEES

Sec. 170.001. REGULATION OF CERTAIN USE OF PRIVATELY OWNED VEHICLES. (a) The commissioners court of a county may adopt rules prohibiting or regulating the use of a privately owned motor vehicle for the performance of county business or law enforcement duties by a sheriff or constable or a deputy of a sheriff or constable.

(b) This section does not authorize a commissioners court to adopt rules relating to the private use of a privately owned motor vehicle.

Added by Acts 1999, 76th Leg., ch. 644, Sec. 2, eff. Sept. 1, 1999. Redesignated from Local Government Code Sec. 240.906 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.001.

Sec. 170.002. CODE OF ETHICS FOR CERTAIN COMMISSIONERS COURTS. (a) This section applies to a county that has a population of less than 50,000 that is adjacent to a county with a population of more than 3.3 million.

(b) The commissioners court of a county subject to this section may adopt by order a code of ethics that provides standards of conduct for members of the commissioners court.

(c) If a commissioners court of a county subject to this section adopts a code of ethics under this section, the code of ethics must require each member of the commissioners court to file a conflicts disclosure statement that is in addition to the statement required by Section 176.003.

Added by Acts 2019, 86th Leg., R.S., Ch. 1070 (H.B. 1495), Sec. 6, eff. June 14, 2019.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 138, eff. September 1, 2023.

SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 171. REGULATION OF CONFLICTS OF INTEREST OF OFFICERS OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 171.001. DEFINITIONS. In this chapter:

(1) "Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.

(2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 171.002. SUBSTANTIAL INTEREST IN BUSINESS ENTITY. (a) For purposes of this chapter, a person has a substantial interest in a business entity if:

(1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or $15,000 or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

(c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 561, Sec. 37, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 849, Sec. 1, eff. Sept. 1, 1997.

Sec. 171.0025. APPLICATION OF CHAPTER TO MEMBER OF HIGHER EDUCATION AUTHORITY. This chapter does not apply to a board member of a higher education authority created under Chapter 53, Education Code, unless a vote, act, or other participation by the board member in the affairs of the higher education authority would provide a financial benefit to a financial institution, school, college, or university that is:

(1) a source of income to the board member; or

(2) a business entity in which the board member has an interest distinguishable from a financial benefit available to any other similar financial institution or other school, college, or university whose students are eligible for a student loan available under Chapter 53, Education Code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 41(a), eff. Aug. 28, 1989.

Sec. 171.003. PROHIBITED ACTS; PENALTY. (a) A local public official commits an offense if the official knowingly:

(1) violates Section 171.004;

(2) acts as surety for a business entity that has work, business, or a contract with the governmental entity; or

(3) acts as surety on any official bond required of an officer of the governmental entity.

(b) An offense under this section is a Class A misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.004. AFFIDAVIT AND ABSTENTION FROM VOTING REQUIRED. (a) If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) The affidavit must be filed with the official record keeper of the governmental entity.

(c) If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.005. VOTING ON BUDGET. (a) The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest.

(b) Except as provided by Section 171.004(c), the affected member may not participate in that separate vote. The member may vote on a final budget if:

(1) the member has complied with this chapter; and

(2) the matter in which the member is concerned has been resolved.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 171.006 and amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.006. EFFECT OF VIOLATION OF CHAPTER. The finding by a court of a violation under this chapter does not render an action of the governing body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 171.008 by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.007. COMMON LAW PREEMPTED; CUMULATIVE OF MUNICIPAL PROVISIONS. (a) This chapter preempts the common law of conflict of interests as applied to local public officials.

(b) This chapter is cumulative of municipal charter provisions and municipal ordinances defining and prohibiting conflicts of interests.

Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.009. SERVICE ON BOARD OF CORPORATION FOR NO COMPENSATION. It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity.

Added by Acts 1989, 71st Leg., ch. 475, Sec. 2, eff. Aug. 28, 1989.

Sec. 171.010. PRACTICE OF LAW. (a) For purposes of this chapter, a county judge or county commissioner engaged in the private practice of law has a substantial interest in a business entity if the official has entered a court appearance or signed court pleadings in a matter relating to that business entity.

(b) A county judge or county commissioner that has a substantial interest in a business entity as described by Subsection (a) must comply with this chapter.

(c) A judge of a constitutional county court may not enter a court appearance or sign court pleadings as an attorney in any matter before:

(1) the court over which the judge presides; or

(2) any court in this state over which the judge's court exercises appellate jurisdiction.

(d) Upon compliance with this chapter, a county judge or commissioner may practice law in the courts located in the county where the county judge or commissioner serves.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 21, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1206, Sec. 3, eff. June 20, 2003.

CHAPTER 172. TEXAS POLITICAL SUBDIVISIONS UNIFORM GROUP BENEFITS PROGRAM

Sec. 172.001. SHORT TITLE. This chapter may be cited as the Texas Political Subdivision Employees Uniform Group Benefits Act.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.002. PURPOSE. The purpose of this chapter is to:

(1) provide uniformity in benefits including accident, health, dental, and long-term disability coverage to employees of political subdivisions;

(2) enable the political subdivisions to attract and retain competent and able employees by providing them with accident and health benefits coverages at least equal to those commonly provided in private industry;

(3) foster, promote, and encourage employment by and service to political subdivisions as a career profession for persons of high standards of competence and ability;

(4) recognize and protect the political subdivisions' investment in each permanent employee by promoting and preserving economic security and good health among those employees;

(5) foster and develop high standards of employer-employee relationships between each political subdivision and its employees;

(6) recognize the service to political subdivisions by elected officials and employees of affiliated service contractors by extending to them the same accident and health benefits coverages as are provided for political subdivision employees; and

(7) recognize the long and faithful service and dedication of employees of political subdivisions and to encourage them to remain in service of their respective political subdivisions until eligible for retirement by providing health benefits to those employees.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 491, Sec. 1, eff. Sept. 1, 2001.

Sec. 172.003. DEFINITIONS. In this chapter:

(1) "Affiliated service contractor" means an organization qualified for exemption under Section 501(c), Internal Revenue Code (26 U.S.C. Section 501(c)), as amended, that provides governmental or quasi-governmental services on behalf of a political subdivision and derives more than 25 percent of its gross revenues from grants or funding from the political subdivision.

(2) "Employee" means a person who works at least 20 hours a week for a political subdivision.

(3) "Political subdivision" means a county, municipality, special district, school district, junior college district, housing

authority, or other political subdivision of this state or any other state.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 491, Sec. 2, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 28, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1363 (S.B. 654), Sec. 5, eff. June 19, 2009.

Sec. 172.004. BENEFITS CONTRACT. (a) A political subdivision or a group of political subdivisions pursuant to The Interlocal Cooperation Act (Chapter 791, Government Code) directly or through a risk pool may provide health and accident coverage for political subdivision officials, employees, and retirees or any class of officials, employees, or retirees, and employees of affiliated service contractors.

(b) The types of coverage that may be provided include group health and accident, group dental, accidental death and dismemberment, and hospital, surgical, and medical expense.

(c) A political subdivision also may include under the coverage dependents of the officers, employees, and retirees and of employees of affiliated service contractors.

(d) A pool's board of trustees may provide coverage for the trustees and the pool's staff, including persons with whom the pool has contracted to perform staff functions, on approval of the members of the pool.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 491, Sec. 3, eff. Sept. 1, 2001.

Sec. 172.005. RISK POOL. (a) A political subdivision may establish a risk pool or may enter into an interlocal agreement under The Interlocal Cooperation Act (Chapter 791, Government Code) with other political subdivisions to establish a risk pool to provide health and accident coverage for officials, employees, retirees, employees of affiliated service contractors, and their dependents.

(b) Contributions paid by a political subdivision's officials,

employees, and retirees and employees of affiliated service contractors for coverage shall be deposited to the credit of the risk pool's fund and used as provided by rules of the risk pool.

(c) A pool by contract may purchase insurance coverage for persons who are covered by the pool from an insurance company authorized to do business in this state.

(d) A pool or its agents may not represent to persons who apply for coverage or who are covered by the pool that the coverage being provided is insurance unless the coverage is by contract purchased from an insurance company authorized to do business in this state.

(e) A risk pool organized under this section is a legal entity that may contract with an insurer licensed to do business in Texas to assume any excess of loss of a benefit contract authorized under Section 172.004. Notwithstanding any provision of the Insurance Code or any other law governing insurance in this state, an insurer authorized to do business in Texas may assume the excess of loss of the benefit contract under Section 172.004.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 611, Sec. 1, eff. Aug. 26, 1991; Acts 2001, 77th Leg., ch. 491, Sec. 4, eff. Sept. 1, 2001.

Sec. 172.006. SUPERVISION AND ADMINISTRATION OF POOL. (a) A political subdivision or a group of political subdivisions that create a risk pool shall select trustees to supervise the operation of the pool.

(b) A pool may be administered by a staff employed by the pool, an entity created by the political subdivision or group of political subdivisions participating in the pool, a staff or entity that administers another pool established under this chapter, or a third party administrator.

(c) Before entering into a contract with a person to be a third party administrator of the pool, the trustees shall require that person to submit information necessary for the trustees to evaluate the background, experience, and financial qualifications and solvency of that person. The information submitted by a prospective administrator other than an insurance company must disclose:

(1) any ownership interest that the prospective administrator has in an insurance company, group hospital service

corporation, health maintenance organization, or other provider of health care indemnity; and

(2) any commission or other benefit that the prospective administrator will receive for purchasing services or coverage for the pool.

(d) An attorney employed by a third party administrator, provider of excess loss coverage, or reinsurer may not be simultaneously employed by the pool unless, before the attorney is employed by the pool, the third party administrator, provider of excess loss coverage, reinsurer, or attorney discloses to the pool's board of trustees that the attorney is employed by the administrator, provider, or reinsurer.

(e) If the state enacts a law providing for the licensing or registration of third party administrators, a risk pool in contracting for administrative services may only contract for services of a third party administrator licensed or registered under that law. This subsection does not apply to a nonprofit corporation that is acting solely on behalf of the risk pool or other pools or administrative agencies established under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes).

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 988, Sec. 1, eff. Sept. 1, 1999.

Sec. 172.007. TRUSTEE TRAINING. (a) Trustees who act as fiduciaries for a risk pool must have at least 16 hours of combined professional instruction with four hours of instruction in each of the following areas:

(1) law governing the establishment and operation of risk pools by political subdivisions;

(2) principles of self-insurance and risk pools, including actuarial and underwriting principles and investment principles;

(3) principles relating to reading and understanding financial statements; and

(4) the general fiduciary duties of trustees.

(b) Not later than the 180th day after the date of selection as trustee, or after the effective date of this chapter, whichever is the later date, a trustee must complete the training required by Subsection (a).

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.008. EXCESS LOSS COVERAGE AND REINSURANCE. (a) A risk pool may purchase excess loss coverage or reinsurance to insure a pool against financial losses that the pool determines might place the solvency of the pool in financial jeopardy.

(b) If a risk pool does not purchase excess loss coverage or reinsurance, the administrator shall give written notice to each person who applies for coverage from the pool that the pool does not maintain excess loss coverage or reinsurance. The administrator shall provide the notice before coverage is issued to an applicant and shall give the applicant the opportunity to decline the coverage.

(c) If a risk pool cancels or does not renew excess loss coverage or reinsurance, the administrator shall give notice to each person covered by the pool that the coverage has been canceled or has not been renewed and shall give each an opportunity to cancel his coverage. The administrator must give the notice and opportunity to cancel coverage not later than the 30th day after the date on which the pool cancels or does not renew the excess loss coverage or reinsurance.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.009. INVESTMENTS. (a) The trustees of a risk pool shall invest the pool's money in accordance with Subchapter A, Chapter 2256, Government Code to the extent that law can be made applicable.

(b) In addition to investments authorized under Subchapter A, Chapter 2256, Government Code, the trustees of a pool may invest the pool's money in any investment authorized by the Texas Trust Code (Subtitle B, Title 9, Property Code).

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(11), eff. Sept. 1, 1995.

Sec. 172.010. AUDITS. (a) The trustees of the pool shall have the fiscal accounts and records of the risk pool audited annually by

an independent auditor.

(b) The person who performs the audit must be a certified public accountant or public accountant licensed by the Texas State Board of Public Accountancy.

(c) The independent audit shall cover a pool's fiscal year.

(d) The trustees of the pool shall file annually with the State Board of Insurance a copy of the audit report. The State Board of Insurance shall maintain the copies of the audit reports at a convenient location and shall make the copies of the audit reports available for public inspection during regular business hours. A person may request the State Board of Insurance to provide copies of any item included in an audit report on payment of the cost of providing the copies. The State Board of Insurance may adopt rules governing the time and manner for filing audit reports under this subsection and the procedures for filing, inspecting, and obtaining copies of audit reports.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 599, Sec. 15, eff. Sept. 1, 1991.

Sec. 172.011. INSOLVENCY. (a) The trustees of a risk pool shall declare the pool insolvent if the trustees determine that the pool is unable to pay valid claims within 60 days after the date the claims are verified.

(b) If a pool is declared insolvent by the trustees, the pool shall cease operation on the day of the declaration, and the trustees shall provide for the disposition of the pool's assets, debts, obligations, losses, and other liabilities.

(c) A person who has coverage under a risk pool may institute proceedings to have the pool declared insolvent by petitioning a district court in Travis County to declare the pool insolvent. If the district court, after notice and hearing, determines that the pool is insolvent, the court shall appoint a receiver to take charge of and dispose of the pool's assets, debts, obligations, losses, and other liabilities. Except as provided by this chapter, a receivership under this section is governed by Chapter 64, Civil Practice and Remedies Code, to the extent that chapter can be made applicable.

(d) After a receiver takes charge of the assets and determines outstanding debts, obligations, losses, and other liabilities, the receiver shall give notice of his determination to any person, including a political subdivision that is a participant in the pool.

(e) If the receiver determines that money is owed to the pool by a political subdivision that is a participant in the pool, the political subdivision may protest the determination by filing with the court a protest statement not later than the 15th day after the date the notice of the receiver's determination is mailed.

(f) If a court in which a protest statement is filed determines after a hearing that an amount is owed by the political subdivision filing the protest statement, the political subdivision shall pay that amount to the receiver not later than the 30th day after the date on which the court's determination becomes final. A determination by a court on a protest statement is interlocutory.

(g) If a protest statement is not filed with the court, the political subdivision shall pay to the receiver the amount determined to be owed not later than the 30th day after the date on which the receiver mails the notice under Subsection (d).

(h) The court that appoints a receiver may direct that a reasonable fee be paid to the receiver as compensation for performance of responsibilities and duties and may assess each political subdivision that is a participant in the pool under the receiver's control an amount necessary to compensate the receiver.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.012. LIMITATION OF RISK POOLS. (a) Except as provided by Subsection (b), a county may not provide health and accident coverage through a risk pool under this chapter, except:

(1) as authorized by Subchapter A, Chapter 157; or

(2) through an interlocal contract entered under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes) with other political subdivisions of this state if the aggregate annual contributions to the pool will exceed $1 million based on an actuarial estimate by an actuary who is a member of the American Academy of Actuaries.

(b) A county with a population of fewer than 500,000 may create and provide coverage through a pool if the aggregate annual claims,

contributions, or both claims and contributions to the pool will exceed $300,000 based on an actuarial estimate by an actuary who is a member of the American Academy of Actuaries.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 649, Sec. 1, eff. Aug. 26, 1991.

Sec. 172.013. PAYMENT OF CONTRIBUTIONS AND PREMIUMS. (a) A political subdivision may pay all or part of the contributions for coverage under this chapter from local funds, including federal grant or contract pass-through funds, that are not dedicated by law to some other purpose.

(b) A political subdivision also may pay all or part of the contributions for coverage for officers, employees, retirees, and dependents, but may not pay any part of the contributions for coverage for employees of affiliated service contractors or their dependents.

(c) On written approval of an officer or employee, a political subdivision may deduct from the officer's or employee's compensation an amount necessary to pay that person's and his dependents' contributions. A retiree may authorize in writing the person who pays his retirement benefits to deduct from those benefits an amount sufficient to pay the retiree's and his dependents' contributions.

(d) State funds, except federal grant or contract funds passed through the state to its political subdivisions, may not be used to purchase coverage or to pay contributions under this chapter.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 491, Sec. 5, eff. Sept. 1, 2001.

Sec. 172.014. APPLICATION OF CERTAIN LAWS. A risk pool created under this chapter is not insurance or an insurer under the Insurance Code and other laws of this state, and the State Board of Insurance does not have jurisdiction over a pool created under this chapter.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.016. STATUS OF AFFILIATED SERVICE CONTRACTORS.

Inclusion of the employees of affiliated service contractors in the uniform group benefits program authorized by this chapter does not, for any purpose:

(1) make an affiliated service contractor a political subdivision or a division of a political subdivision; or

(2) make an employee of an affiliated service contractor an employee of a political subdivision or a division of a political subdivision.

Added by Acts 2001, 77th Leg., ch. 491, Sec. 6, eff. Sept. 1, 2001.

CHAPTER 173. TEMPORARY SALARY PAYMENTS FOR MUNICIPAL AND COUNTY EMPLOYEES CALLED TO ACTIVE DUTY

Sec. 173.001. EMPLOYEES SUBJECT TO CHAPTER. (a) This chapter applies to a municipal or county employee who is a member of a reserve component of the armed forces of the United States, including any appropriate part of the state military forces, and who by virtue of that membership is called to active duty in the armed forces of the United States by federal authority without the person's consent before, on, or after the effective date of this chapter as part of a partial or total mobilization of the reserve components of the armed forces.

(b) This chapter does not apply to a person who:

(1) ceases to be employed by a municipality or county because the person resigns or is terminated for a reason that is not a direct consequence of the person's call to active duty as described under Subsection (a); or

(2) commits a voluntary act that extends the person's original assigned service to active duty.

Added by Acts 2003, 78th Leg., ch. 671, Sec. 1, eff. June 20, 2003.

Sec. 173.002. SALARY CONTINUATION. (a) Notwithstanding any other law, if a person to whom this chapter applies exhausts all military leave to which the person is entitled under state law, the municipality or county may continue the person's municipal or county salary payments under this chapter in an amount determined by the governing body of the municipality or the commissioners court, as applicable, until the person is no longer required to serve on active

duty under the circumstances described by Section 173.001(a).

(b) The salary payments authorized by Subsection (a) are payable:

(1) from the general fund of the municipality or county or other funds available for that purpose on the date the person is called to active duty; and

(2) only for a municipal or county pay period that began on or after September 1, 2002.

Added by Acts 2003, 78th Leg., ch. 671, Sec. 1, eff. June 20, 2003.

Sec. 173.003. MANNER OF PAYMENT. Salary payments under this chapter may be paid in the manner directed by the person, subject to the approval of the governing body of a municipality or the commissioners court of a county, as applicable, except as provided by other law.

Added by Acts 2003, 78th Leg., ch. 671, Sec. 1, eff. June 20, 2003.

Sec. 173.004. RULES. The governing body of a municipality and the commissioners court of a county may adopt rules to implement this chapter.

Added by Acts 2003, 78th Leg., ch. 671, Sec. 1, eff. June 20, 2003.

Sec. 173.005. OTHER BENEFITS UNAFFECTED. This chapter authorizes the continuation of municipal or county salary payments only as provided by Sections 173.001-173.004.

Added by Acts 2003, 78th Leg., ch. 671, Sec. 1, eff. June 20, 2003.

CHAPTER 174. FIRE AND POLICE EMPLOYEE RELATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 174.001. SHORT TITLE. This chapter may be cited as The Fire and Police Employee Relations Act.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.002. POLICY. (a) The policy of this state is that a political subdivision shall provide its fire fighters and police officers with compensation and other conditions of employment that are substantially the same as compensation and conditions of employment prevailing in comparable private sector employment.

(b) The policy of this state is that fire fighters and police officers, like employees in the private sector, should have the right to organize for collective bargaining, as collective bargaining is a fair and practical method for determining compensation and other conditions of employment. Denying fire fighters and police officers the right to organize and bargain collectively would lead to strife and unrest, consequently injuring the health, safety, and welfare of the public.

(c) The health, safety, and welfare of the public demands that strikes, lockouts, and work stoppages and slowdowns of fire fighters and police officers be prohibited, and therefore it is the state's duty to make available reasonable alternatives to strikes by fire fighters and police officers.

(d) Because of the essential and emergency nature of the public service performed by fire fighters and police officers, a reasonable alternative to strikes is a system of arbitration conducted under adequate legislative standards. Another reasonable alternative, if the parties fail to agree to arbitrate, is judicial enforcement of the requirements of this chapter regarding compensation and conditions of employment applicable to fire fighters and police officers.

(e) With the right to strike prohibited, to maintain the high morale of fire fighters and police officers and the efficient operation of the departments in which they serve, alternative procedures must be expeditious, effective, and binding.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.003. DEFINITIONS. In this chapter:

(1) "Association" means any type of organization, including an agency or employee representation committee or plan, in which fire fighters, police officers, or both, participate and that exists, in

whole or in part, to deal with one or more public or private employers concerning grievances, labor disputes, or conditions of employment affecting fire fighters, police officers, or both.

(2) "Fire fighter" means a permanent, paid employee of the fire department of a political subdivision. The term does not include:

(A) the chief of the department; or

(B) a volunteer fire fighter.

(3) "Police officer" means a paid employee who is sworn, certified or licensed by the Texas Commission on Law Enforcement, and full-time, and who regularly serves in a professional law enforcement capacity in the police department of a political subdivision, the office of a district attorney as an investigator, or the office of the county fire marshal. The term does not include the chief of the department.

(4) "Political subdivision" includes a municipality and a county.

(5) "Public employer" means the official or group of officials of a political subdivision whose duty is to establish the compensation, hours, and other conditions of employment of fire fighters, police officers, or both, and may include the mayor, city manager, town manager, town administrator, municipal governing body, director of personnel, personnel board, commissioners, commissioners court, or another official or combination of those persons.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.16, eff. Sept. 1, 1999.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 350 (H.B. 4205), Sec. 1, eff. September 1, 2025.

Sec. 174.004. LIBERAL CONSTRUCTION. This chapter shall be liberally construed.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.005. PREEMPTION OF OTHER LAW. Except as provided by this chapter, this chapter preempts all contrary local ordinances,

executive orders, legislation, or rules adopted by the state or by a political subdivision or agent of the state, including a personnel board, civil service commission, commissioners court, or home-rule municipality.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 350 (H.B. 4205), Sec. 2, eff. September 1, 2025.
Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 1, eff. September 1, 2025.

Sec. 174.006. EFFECT ON CIVIL SERVICE PROVISIONS. (a) A state or local civil service provision prevails over a collective bargaining contract under this chapter unless the collective bargaining contract specifically provides otherwise.

(b) A civil service provision may not be repealed or modified by arbitration or judicial action but may be interpreted or enforced by an arbitrator or court.

(c) This chapter does not limit the authority of a municipal fire chief or police chief under Chapter 143 except as modified by the parties through collective bargaining.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.007. EFFECT ON EXISTING BENEFITS. This chapter may not be construed as repealing any existing benefit provided by statute or ordinance concerning fire fighters' or police officers' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments. This chapter is in addition to the benefits provided by existing statutes and ordinances.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.008. WAIVER OF IMMUNITY. This chapter is binding and enforceable against the employing public employer, and sovereign or governmental immunity from suit and liability is waived only to the extent necessary to enforce this chapter against that employer.

Added by Acts 2007, 80th Leg., R.S., Ch. 1200 (H.B. 1473), Sec. 2, eff. June 15, 2007.

SUBCHAPTER B. CONDITIONS OF EMPLOYMENT AND RIGHT TO ORGANIZE

Sec. 174.021. PREVAILING WAGE AND WORKING CONDITIONS REQUIRED. A political subdivision that employs fire fighters, police officers, or both, shall provide those employees with compensation and other conditions of employment that are:

(1) substantially equal to compensation and other conditions of employment that prevail in comparable employment in the private sector; and

(2) based on prevailing private sector compensation and conditions of employment in the labor market area in other jobs that require the same or similar skills, ability, and training and may be performed under the same or similar conditions.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.022. CERTAIN PUBLIC EMPLOYERS CONSIDERED TO BE IN COMPLIANCE. (a) A public employer that has reached an agreement with an association on compensation or other conditions of employment as provided by this chapter is considered to be in compliance with the requirements of Section 174.021 as to the conditions of employment for the duration of the agreement.

(b) If an arbitration award or other impasse resolution is rendered as provided by Subchapter E or E-1, the public employer involved is considered to be in compliance with the requirements of Section 174.021 as to the conditions of employment provided by the award for the duration of the collective bargaining period to which the award applies.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 2, eff. September 1, 2025.

Sec. 174.023. RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY. On adoption of this chapter or the law codified by this chapter by a

political subdivision to which this chapter applies, fire fighters, police officers, or both are entitled to organize and bargain collectively with their public employer regarding compensation, hours, and other conditions of employment.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

SUBCHAPTER C. ADOPTION AND REPEAL OF COLLECTIVE BARGAINING PROVISIONS

Sec. 174.051. ADOPTION ELECTION. (a) The governing body of a political subdivision to which this chapter applies shall order an election for the adoption of this chapter on receiving a petition signed by qualified voters of the political subdivision in a number equal to or greater than the lesser of:

(1) 20,000; or

(2) five percent of the number of qualified voters voting in the political subdivision in the preceding general election for state and county officers.

(b) The governing body shall hold the election on the first authorized uniform election date prescribed by Chapter 41, Election Code, that allows sufficient time for compliance with any requirements established by law.

(c) The ballot in the election shall be printed to provide for voting for or against the proposition: "Adoption of the state law applicable to (fire fighters, police officers, or both, as applicable) that establishes collective bargaining if a majority of the affected employees favor representation by an employees association, preserves the prohibition against strikes and lockouts, and provides penalties for strikes and lockouts."

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.052. EFFECT OF SUCCESSFUL ADOPTION ELECTION. If a majority of the votes cast in an election under Section 174.051 favor adoption of this chapter, the governing body shall place this chapter in effect not later than the 30th day after the beginning of the first fiscal year of the political subdivision after the election.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.053. REPEAL ELECTION. (a) The governing body of a political subdivision in which the collective bargaining provisions of this chapter have been in effect for at least one year shall order an election for the repeal of the adoption of this chapter on receiving a petition signed by qualified voters of the political subdivision in a number equal to or greater than the lesser of:

(1) 20,000; or

(2) five percent of the number of qualified voters voting in the political subdivision in the preceding general election for state and county officers.

(b) The ballot in the election shall be printed to provide for voting for or against the proposition: "Repeal of the adoption of the state law applicable to (fire fighters, police officers, or both, as applicable) that establishes collective bargaining if a majority of the affected employees favor representation by an employees association, preserves the prohibition against strikes and lockouts, and provides penalties for strikes and lockouts."

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.054. EFFECT OF SUCCESSFUL REPEAL ELECTION. If a majority of the votes cast in an election under Section 174.053 favor repeal of the adoption of this chapter, the collective bargaining provisions of this chapter are void as to the political subdivision.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.055. FREQUENCY OF ELECTIONS. If an election for the adoption or the repeal of the adoption of this chapter is held under this subchapter, a like petition for a subsequent election may not be submitted before the first anniversary of the date of the preceding election.

Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

SUBCHAPTER D. COLLECTIVE BARGAINING

Sec. 174.101. RECOGNITION OF BARGAINING AGENT FOR FIRE FIGHTERS. A public employer shall recognize an association selected

by a majority of the fire fighters of the fire department of a political subdivision as the exclusive bargaining agent for the fire fighters of that department unless a majority of the fire fighters withdraw the recognition.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.102. RECOGNITION OF BARGAINING AGENT FOR POLICE OFFICERS. A public employer shall recognize an association selected by a majority of the police officers of the police department of a political subdivision as the exclusive bargaining agent for the police officers of that department unless a majority of the police officers withdraw the recognition.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.103. SINGLE BARGAINING AGENT FOR FIRE FIGHTERS AND POLICE OFFICERS. (a) Except as provided by Subsection (b), the fire and police departments of a political subdivision are separate collective bargaining units under this chapter.

(b) Associations that represent employees in the fire and police departments of a political subdivision may voluntarily join together for collective bargaining with the public employer.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.104. QUESTION REGARDING REPRESENTATION. (a) A question of whether an association is the majority representative of the employees of a department under Sections 174.101-174.103 shall be resolved by a fair election conducted according to procedures agreed on by the parties.

(b) If the parties are unable to agree on election procedures under Subsection (a), either party may request the American Arbitration Association to conduct the election and certify the results. Certification of the results of an election under this section shall resolve the question regarding representation. The public employer shall pay the expenses of the election, except that if two or more associations seek recognition as the bargaining agent,

the associations shall pay the costs of the election equally.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.105. DUTY TO BARGAIN COLLECTIVELY IN GOOD FAITH. (a) If the fire fighters, police officers, or both of a political subdivision are represented by an association as provided by Sections 174.101-174.104, the public employer and the association shall bargain collectively.

(b) For purposes of this section, the duty to bargain collectively means a public employer and an association shall:

(1) meet at reasonable times;

(2) confer in good faith regarding compensation, hours, and other conditions of employment or the negotiation of an agreement or a question arising under an agreement; and

(3) execute a written contract incorporating any agreement reached, if either party requests a written contract.

(c) This section does not require a public employer or an association to:

(1) agree to a proposal; or

(2) make a concession.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.106. DESIGNATION OF NEGOTIATOR. A public employer or an association may designate one or more persons to negotiate or bargain on its behalf.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.107. NOTICE TO PUBLIC EMPLOYER REGARDING CERTAIN ISSUES. If compensation or another matter that requires an appropriation of money by any governing body is included for collective bargaining under this chapter, an association shall serve on the public employer a written notice of its request for collective bargaining at least 120 days before the date on which the public employer's current fiscal operating budget ends.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.108. OPEN DELIBERATIONS. A deliberation relating to collective bargaining between a public employer and an association, a deliberation by a quorum of an association authorized to bargain collectively, or a deliberation by a member of a public employer authorized to bargain collectively shall be open to the public and comply with state law.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.109. EFFECT OF AGREEMENT. An agreement under this chapter is binding and enforceable against a public employer, an association, and a fire fighter or police officer covered by the agreement.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

SUBCHAPTER E. MEDIATION; IMPASSE RESOLUTION

Sec. 174.151. MEDIATION. (a) A public employer and an association that is a bargaining agent may use mediation to assist them in reaching an agreement.

(b) If a mediator is used, then a mediator may be appointed by agreement of the parties or by an appropriate state agency.

(c) A mediator may:

(1) hold separate or joint conferences as the mediator considers expedient to settle issues voluntarily, amicably, and expeditiously; and

(2) notwithstanding Subsection (d), recommend or suggest to the parties any proposal or procedure that in the mediator's judgment might lead to settlement.

(d) A mediator may not:

(1) make a public recommendation on any negotiation issue in connection with the mediator's service; or

(2) make a public statement or report that evaluates the relative merits of the parties' positions.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.152. IMPASSE. (a) For purposes of this subchapter, an impasse in the collective bargaining process is considered to have occurred if the parties do not settle in writing each issue in dispute before the 61st day after the date on which the collective bargaining process begins.

(b) The period specified in Subsection (a) may be extended by written agreement of the parties. An extension must be for a definite period not to exceed 15 days.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.153. REQUEST FOR ARBITRATION; AGREEMENT TO ARBITRATE. (a) Except as provided by Sections 174.1535 and 174.165 and Subchapter E-1, a public employer or an association that is a bargaining agent may request the appointment of an arbitration board if:

(1) the parties:

(A) reach an impasse in collective bargaining; or

(B) are unable to settle after the appropriate lawmaking body fails to approve a contract reached through collective bargaining;

(2) the parties made every reasonable effort, including mediation, to settle the dispute through good-faith collective bargaining; and

(3) the public employer or association gives written notice to the other party, specifying the issue in dispute.

(b) A request for arbitration must be made not later than the fifth day after:

(1) the date an impasse was reached under Section 174.152; or

(2) the expiration of an extension period under Section 174.152.

(c) An election by both parties to arbitrate must:

(1) be made not later than the fifth day after the date arbitration is requested; and

(2) be a written agreement to arbitrate.

(d) A party may not request arbitration more than once in a

fiscal year.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 342 (S.B. 736), Sec. 1, eff. June 2, 2023.

Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 4, eff. September 1, 2025.

Sec. 174.1535. MANDATORY ARBITRATION. (a) This section applies only to:

(1) a fire department that serves a municipality with a population of 1.9 million or more; and

(2) an association that is a bargaining agent for the employees of a fire department described by Subdivision (1).

(b) A public employer and an association that is a bargaining agent shall submit to binding interest arbitration if the parties:

(1) reach an impasse in collective bargaining; or

(2) are unable to settle after the 61st day after the date the appropriate lawmaking body fails to approve a contract reached through collective bargaining.

(c) Each party shall send to the other party a written notice specifying each issue in dispute for purposes of binding arbitration not later than the fifth day after:

(1) the date an impasse was reached under Section 174.152;

(2) the expiration of an extension period under Section 174.152; or

(3) the expiration of the period described by Subsection (b)(2).

(d) A notice under Subsection (c) is considered sent on the date the notice is placed in the mail, personally delivered, or transmitted by e-mail or any other means of electronic transfer.

Added by Acts 2023, 88th Leg., R.S., Ch. 342 (S.B. 736), Sec. 2, eff. June 2, 2023.

Sec. 174.154. ARBITRATION BOARD. (a) Not later than the fifth day after the date an agreement to arbitrate is executed, each party shall:

(1) select one arbitrator; and

(2) immediately notify the other party in writing of the name and address of the arbitrator selected.

(b) Not later than the 10th day after the date an agreement to arbitrate is executed, the arbitrators named under Subsection (a) shall attempt to select a third (neutral) arbitrator. If the arbitrators are unable to agree on a third arbitrator, either party may request the American Arbitration Association to select the third arbitrator, and the American Arbitration Association may appoint the third arbitrator according to its fair and regular procedures. Unless both parties consent, the third arbitrator may not be the same individual who served as a mediator under Section 174.151.

(c) The arbitrator selected under Subsection (b) presides over the arbitration board.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.155. ARBITRATION HEARING. (a) A presiding arbitrator shall:

(1) call a hearing to be held not later than the 10th day after the date on which the presiding arbitrator is appointed; and

(2) notify the other arbitrators, the public employer, and the association in writing of the time and place of the hearing, not later than the eighth day before the hearing.

(b) An arbitration hearing shall end not later than the 20th day after the date the hearing begins.

(c) An arbitration hearing shall be informal.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.156. SCOPE OF ARBITRATION. (a) The issues to be arbitrated are all matters the parties are unable to resolve through collective bargaining and mediation procedures required by this chapter.

(b) Except as provided by Section 174.165 or Subchapter E-1, an arbitration board shall render an award in accordance with the requirements of Section 174.021. In settling disputes relating to compensation, hours, and other conditions of employment, the board shall consider:

(1) hazards of employment;
(2) physical qualifications;
(3) educational qualifications;
(4) mental qualifications;
(5) job training;
(6) skills; and
(7) other factors.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 5, eff. September 1, 2025.

Sec. 174.157. EVIDENCE; OATH; SUBPOENA. (a) The rules of evidence applicable to judicial proceedings are not binding in an arbitration hearing.

(b) An arbitration board may:

(1) receive in evidence any documentary evidence or other information the board considers relevant;

(2) administer oaths; and

(3) issue subpoenas to require:

(A) the attendance and testimony of witnesses; and

(B) the production of books, records, and other evidence relevant to an issue presented to the board for determination.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.158. ARBITRATION AWARD. (a) Not later than the 10th day after the end of the hearing, an arbitration board shall:

(1) make written findings; and

(2) render a written award on the issues presented to the board.

(b) A copy of the findings and award shall be mailed or delivered to the public employer and the association.

(c) An increase in compensation awarded by an arbitration board under this subchapter may take effect only at the beginning of the next fiscal year after the date of the award.

(d) If a new fiscal year begins after the initiation of

arbitration procedures under this subchapter, Subsection (c) does not apply and an increase in compensation may be retroactive to the beginning of the fiscal year.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.159. EFFECT OF AWARD. If a majority decision of an arbitration board is supported by competent, material, and substantial evidence on the whole record, the decision:

(1) is final and binding on the parties; and

(2) may be enforced by either party or the arbitration board in a district court for the judicial district in which a majority of the affected employees reside.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.160. AMENDMENT OF AWARD. The parties to an arbitration award may amend the award by written agreement at any time.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.161. BEGINNING OF NEW FISCAL YEAR. If a new fiscal year begins after the initiation of arbitration procedures under this subchapter but before an award is rendered or enforced:

(1) the dispute is not moot;

(2) the jurisdiction of the arbitration board is not impaired; and

(3) the arbitration award is not impaired.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.162. EXTENSION OF PERIOD. A period specified by Section 174.155 or 174.158 may be extended:

(1) by the written agreement of the parties for a reasonable period; or

(2) by the arbitration board for good cause for one or more

periods that in the aggregate do not exceed 20 days.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.163. COMPULSORY ARBITRATION NOT REQUIRED; EXCEPTIONS. Except as provided by Section 174.165 or Subchapter E-1, this chapter does not require compulsory arbitration.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 6, eff. September 1, 2025.

Sec. 174.164. COMPENSATION OF ARBITRATORS; EXPENSES OF ARBITRATION. (a) The compensation of an arbitrator selected by a public employer shall be paid by the public employer.

(b) The compensation, if any, of an arbitrator selected by fire fighters, police officers, or both shall be paid by the association representing the employees.

(c) The public employer and the association representing the employees shall jointly pay in even proportions:

(1) the compensation of the neutral arbitrator; and

(2) the stenographic and other expenses incurred by the arbitration board in connection with the arbitration proceedings.

(d) If a party to arbitration requires a transcript of the arbitration proceedings, the party shall pay the cost of the transcript.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.165. OTHER IMPASSE RESOLUTION FOR FIRE FIGHTERS UNDER MUNICIPAL CHARTER OR COLLECTIVE BARGAINING AGREEMENT. (a) Except as provided by Subsection (b), this section applies only to:

(1) except as provided by Subdivision (2), if a municipality has a charter that provides for the resolution of an impasse in a collective bargaining process governed by this chapter involving a public employer of the municipality and an association that is a bargaining agent for employees of the public employer, that

public employer and bargaining agent; or

(2) if a collective bargaining agreement under this chapter is in effect and provides for the resolution of an impasse in a collective bargaining process governed by this chapter involving a public employer of a political subdivision and an association that is the bargaining agent for the fire fighters of the public employer, that public employer and bargaining agent.

(b) This section does not apply to a municipality or association to which Subchapter E-1 applies.

(c) A public employer and an association that is a bargaining agent for fire fighters shall submit to the impasse resolution mechanism contained in the charter or agreement described by Subsection (a), as applicable, if the parties:

(1) reach an impasse in collective bargaining; or

(2) are unable to settle after the 61st day after the date the appropriate lawmaking body fails to approve a contract reached through collective bargaining.

(d) A provision of this subchapter relating to arbitration does not apply to the impasse resolution mechanism described by Subsection (c), unless the charter or agreement described by Subsection (a), as applicable, specifically provides otherwise. To the extent of any conflict, the charter or agreement, as applicable, prevails over any provision of this subchapter.

Added by Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 7, eff. September 1, 2025.

SUBCHAPTER E-1. ARBITRATION IN CERTAIN MUNICIPALITIES

Sec. 174.181. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:

(1) a municipality with a population of more than 950,000 and less than 1,050,000; and

(2) an association that is a bargaining agent for the employees of a fire department of a municipality described by Subdivision (1).

Added by Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 8, eff. September 1, 2025.

Sec. 174.182. BINDING INTEREST ARBITRATION. (a) A municipality and an association that is a bargaining agent shall submit to binding interest arbitration as provided by this subchapter if the parties have reached an impasse as defined by Section 174.152.

(b) The municipality or the association that is a bargaining agent may request arbitration after the party provides written notice to the other party specifying the issues in dispute.

(c) If a party requests arbitration under this section, the parties shall submit all issues in dispute to arbitration not later than the 45th day after the date the other party received the requesting party's written arbitration request.

Added by Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 8, eff. September 1, 2025.

Sec. 174.183. ARBITRATION BOARD. (a) Not later than the fifth day after the date the original written request to arbitrate is received, each party shall:

(1) select one arbitrator; and

(2) immediately notify the other party in writing of the name and contact information of the arbitrator selected.

(b) Not later than the 10th day after the date arbitrators are selected under Subsection (a), the arbitrators shall attempt to select a third, neutral arbitrator to form a three-person arbitration board.

(c) If the arbitrators are unable to agree on a third arbitrator as provided by Subsection (b), the parties shall request a nationwide list of nine qualified neutral arbitrators from the American Arbitration Association. The parties may agree on one of the nine neutral arbitrators on the list. If the parties do not agree within five days after the date they receive the list, each party shall alternate striking a name from the list, and the name remaining is the third arbitrator.

(d) The third arbitrator selected under this section presides over the arbitration board.

(e) A decision made by the arbitration board at any stage of the arbitration process must be determined by majority vote of the arbitrators on the board.

Added by Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 8, eff.

September 1, 2025.

Sec. 174.184. ARBITRATION PROCESS; JUDICIAL REVIEW. (a) Except as provided by this subchapter, Subchapter E does not apply to arbitration conducted under this subchapter. Arbitration under this subchapter must be conducted in accordance with Sections 174.155, 174.157, 174.158, 174.159, 174.160, 174.161, 174.162, and 174.164.

(b) An award of an arbitration board issued under this subchapter may be reviewed by a district court in accordance with Section 174.253.

Added by Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 8, eff. September 1, 2025.

Sec. 174.185. ARBITRATION AWARD CONSIDERATIONS. In making an award under this subchapter, the arbitration board may consider only the following:

(1) the history of collective bargaining agreements and negotiations between the parties;

(2) compensation and conditions of employment that prevail in comparable public sector employment in other municipalities;

(3) the rate of increase or decrease in the cost of living for the municipality's metropolitan area as determined by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), adjusted as necessary to account for housing and tax costs in the metropolitan area and other relevant local factors;

(4) any of the following conditions of employment:

(A) hazards of employment;

(B) physical qualifications;

(C) educational qualifications;

(D) mental qualifications;

(E) job training;

(F) skills;

(G) employee morale; and

(H) any other factors with respect to a condition of employment the arbitration board determines to be relevant to the issues raised by the parties; and

(5) revenues available to and contractual obligations of

the municipality and the impact of any arbitration ruling on the taxpayers of the municipality.

Added by Acts 2025, 89th Leg., R.S., Ch. 901 (S.B. 777), Sec. 8, eff. September 1, 2025.

SUBCHAPTER F. STRIKES; LOCKOUTS

Sec. 174.201. DEFINITION. In this subchapter, "strike" means failing to report for duty in concerted action with others, wilfully being absent from one's position, stopping work, abstaining from the full, faithful, and proper performance of the duties of employment, or interfering with the operation of a municipality in any manner, to induce, influence, or coerce a change in the conditions, compensation, rights, privileges, or obligations of employment.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.202. STRIKES, SLOWDOWNS, AND LOCKOUTS PROHIBITED. (a) A fire fighter or police officer may not engage in a strike or slowdown.

(b) A lockout of fire fighters or police officers is prohibited.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.203. LOCKOUT BY MUNICIPALITY; INJUNCTION; PENALTY. If a municipality or its designated agent or a department or agency head engages in a lockout of fire fighters or police officers, a court shall:

(1) prohibit the lockout;

(2) impose a fine not to exceed $2,000 on any individual violator; or

(3) both prohibit the lockout and impose the fine.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.204. STRIKE; PENALTY AGAINST ASSOCIATION. (a) A

district court for the judicial district in which a municipality is located that finds that an association has called, ordered, aided, or abetted a strike by fire fighters or police officers shall:

(1) impose a fine on the association for each day of the strike equal to 1/26 of the total of the association's annual membership dues, but not less than $2,500 nor more than $20,000; and

(2) order the forfeiture of any membership dues checkoff for a specified period not to exceed 12 months.

(b) If the court finds that the municipality or its representative engaged in acts of extreme provocation that detract substantially from the association's responsibility for the strike, the court may reduce the amount of the fine.

(c) An association that appeals a fine under Subsection (b) is not required to pay the fine until the appeal is finally determined.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.205. STRIKE; PENALTY AGAINST INDIVIDUAL. If a fire fighter or police officer engages in a strike, interferes with the municipality, prevents the municipality from engaging in its duty, directs any employee of the municipality to decline to work or to stop or slow down work, causes another to fail or refuse to deliver goods or services to the municipality, pickets for any of those unlawful acts, or conspires to perform any of those acts:

(1) the fire fighter's or police officer's compensation in any form may not increase in any manner until after the first anniversary of the date the individual resumes normal working duties; and

(2) the fire fighter or police officer shall be on probation for two years regarding civil service status, tenure of employment, or contract of employment to which the individual was previously entitled.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

SUBCHAPTER G. JUDICIAL ENFORCEMENT AND REVIEW

Sec. 174.251. JUDICIAL ENFORCEMENT GENERALLY. A district court for the judicial district in which a municipality is located, on the application of a party aggrieved by an act or omission of the other

party that relates to the rights or duties under this chapter, may issue a restraining order, temporary or permanent injunction, contempt order, or other writ, order, or process appropriate to enforce this chapter.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.252. JUDICIAL ENFORCEMENT WHEN PUBLIC EMPLOYER DECLINES ARBITRATION. (a) If an association requests arbitration as provided by Subchapter E and a public employer refuses to engage in arbitration, on the application of the association, a district court for the judicial district in which a majority of affected employees reside may enforce the requirements of Section 174.021 as to any unsettled issue relating to compensation or other conditions of employment of fire fighters, police officers, or both.

(b) If the court finds that the public employer has violated Section 174.021, the court shall:

(1) order the public employer to make the affected employees whole as to the employees' past losses;

(2) declare the compensation or other conditions of employment required by Section 174.021 for the period, not to exceed one year, as to which the parties are bargaining; and

(3) award the association reasonable attorney's fees.

(c) The court costs of an action under this section, including costs for a master if one is appointed, shall be taxed to the public employer.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.253. JUDICIAL REVIEW OF ARBITRATION AWARD. (a) An award of an arbitration board may be reviewed by a district court for the judicial district in which the municipality is located only on the grounds that:

(1) the arbitration board was without jurisdiction;

(2) the arbitration board exceeded its jurisdiction;

(3) the order is not supported by competent, material, and substantial evidence on the whole record; or

(4) the order was obtained by fraud, collusion, or similar unlawful means.

(b) The pendency of a review proceeding does not automatically stay enforcement of the arbitration board's order.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

CHAPTER 175. RIGHT OF EMPLOYEES OF CERTAIN POLITICAL SUBDIVISIONS TO PURCHASE CONTINUED HEALTH COVERAGE AT RETIREMENT

Sec. 175.001. APPLICABILITY. (a) In this section, "township" means a special district with territory that only includes a census designated place, as designated by the United States Bureau of the Census.

(b) This chapter applies to a person who:

(1) retires from:

(A) county employment in a county with a population of 75,000 or more;

(B) employment by an appraisal district in a county with a population of 75,000 or more;

(C) municipal employment in a municipality with a population of 25,000 or more;

(D) employment as a firefighter or emergency medical services provider by an emergency services district located wholly or partly in a county with a population of 150,000 or more; or

(E) employment as a firefighter, police officer, or emergency medical services provider by a township with a population of 110,000 or more; and

(2) is entitled to receive retirement benefits from a county, appraisal district, or municipal retirement plan, emergency services district, or township.

Added by Acts 1993, 73rd Leg., ch. 663, Sec. 1, eff. Sept. 1, 1993. Renumbered from Local Government Code Sec. 174.001 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(38), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1363 (S.B. 654), Sec. 2, eff. June 19, 2009.

Acts 2021, 87th Leg., R.S., Ch. 337 (H.B. 2171), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 787 (H.B. 5344), Sec. 1, eff. September 1, 2023.

Sec. 175.002. RIGHT TO PURCHASE CONTINUED COVERAGE. (a) A person to whom this chapter applies is entitled to purchase continued health benefits coverage for the person and the person's dependents as provided by this chapter unless the person is eligible for group health benefits coverage through another employer. The coverage shall be provided under the group health insurance plan or group health coverage plan provided by or through the employing political subdivision to its employees.

(b) To receive continued coverage under this chapter, the person must inform the employing political subdivision, not later than the day on which the person retires from the political subdivision, that the person elects to continue coverage.

(c) If the person elects to continue coverage for the person and on any subsequent date elects to discontinue such coverage, the person is no longer eligible for coverage under this chapter.

(d) If the person elects to continue coverage for any dependent and on any subsequent date elects to discontinue such coverage, the dependent is no longer eligible for coverage under this chapter.

Added by Acts 1993, 73rd Leg., ch. 663, Sec. 1, eff. Sept. 1, 1993.
Renumbered from Local Government Code Sec. 174.002 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(38), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1363 (S.B. 654), Sec. 3, eff. June 19, 2009.

Sec. 175.003. LEVEL OF COVERAGE. (a) The person may elect to cover the same persons who were covered under the political subdivision's group health insurance plan or group health coverage plan through the person at the time the person left employment with the political subdivision, or the person may elect to discontinue coverage for one or more persons. A person who was not covered under the plan at the time the person to whom this chapter applies left employment with the political subdivision is not eligible for coverage under this chapter.

(b) Except as provided by Subsections (c) and (d), the level of coverage provided under this chapter at any given time is the same level of coverage provided to current employees of the political subdivision at that time.

(c) A political subdivision may substitute Medicare supplement health benefits coverage as the coverage provided for a person who receives health benefits coverage under this chapter, including a dependent, after the date that the person becomes eligible for federal Medicare benefits.

(d) The person may elect to continue coverage at a reduced level, if offered by the political subdivision.

Added by Acts 1993, 73rd Leg., ch. 663, Sec. 1, eff. Sept. 1, 1993. Renumbered from Local Government Code Sec. 174.003 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(38), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1363 (S.B. 654), Sec. 4, eff. June 19, 2009.

Sec. 175.004. PAYMENT FOR COVERAGE. A person who is entitled to continued coverage under this chapter is entitled to make payments for the coverage at the same time and to the same entity that payments for the coverage are made by current employees of the political subdivision.

Added by Acts 1993, 73rd Leg., ch. 663, Sec. 1, eff. Sept. 1, 1993. Renumbered from Local Government Code Sec. 174.004 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(38), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1363 (S.B. 654), Sec. 4, eff. June 19, 2009.

Sec. 175.005. DUTY TO INFORM RETIREE OF RIGHTS. A political subdivision shall provide written notice to a person to whom this chapter may apply of the person's rights under this chapter not later than the date the person retires from the political subdivision. A political subdivision may fulfill its requirements under this section by placing the written notice required by this section in a personnel manual or employee handbook that is available to all employees.

Added by Acts 1993, 73rd Leg., ch. 663, Sec. 1, eff. Sept. 1, 1993. Renumbered from Local Government Code Sec. 174.005 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(38), eff. Sept. 1, 1995.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1363 (S.B. 654), Sec. 4, eff. June 19, 2009.

Sec. 175.006. CERTAIN MATTERS NOT AFFECTED. This chapter does not:

(1) prohibit a political subdivision from uniformly changing the group health insurance plan or group health coverage plan provided for its employees and retirees;

(2) affect the definition of a dependent or the eligibility requirements for a dependent under a plan;

(3) prohibit a political subdivision from agreeing with a person to deduct the cost of coverage provided under this chapter from a pension check;

(4) prohibit a political subdivision from agreeing with a person to pay for the coverage provided under this chapter provided the person reimburses the political subdivision for the actual cost of the coverage;

(5) prohibit a political subdivision or a pool established under Chapter 172 from increasing the cost of group health coverage to its employees and to persons covered under this chapter to reflect the increased cost, if any, attributable to compliance with this chapter;

(6) affect the right of a political subdivision to provide coverage under Chapter 172; or

(7) affect the right of a political subdivision or a pool established under Chapter 172 to offer the coverage at the same rate that is available to active employees or to offer the coverage at a reasonable or actual rate established for retirees that may be greater than the rate offered to active employees.

Added by Acts 1993, 73rd Leg., ch. 663, Sec. 1, eff. Sept. 1, 1993.
Renumbered from Local Government Code Sec. 174.006 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(38), eff. Sept. 1, 1995.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1363 (S.B. 654), Sec. 4, eff. June 19, 2009.

Sec. 175.007. EXEMPTIONS. (a) A political subdivision that does not provide health benefits coverage through a self-insured plan or a plan authorized under Chapter 172 is not required to provide coverage under this chapter if the political subdivision makes a good faith effort to purchase insurance coverage that includes coverage required by this chapter from an insurance company authorized to do business in this state and from pools established under Chapter 172 but is unable to find a provider for the coverage.

(b) A political subdivision that is providing coverage substantially similar to or better than the coverage required by this chapter is exempt from this chapter.

Added by Acts 1993, 73rd Leg., ch. 663, Sec. 1, eff. Sept. 1, 1993. Renumbered from Local Government Code Sec. 174.007 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(38), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1363 (S.B. 654), Sec. 4, eff. June 19, 2009.

CHAPTER 176. DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL GOVERNMENT OFFICERS; PROVIDING PUBLIC ACCESS TO CERTAIN INFORMATION

Sec. 176.001. DEFINITIONS. In this chapter:

(1) "Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee.

(1-a) "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

(1-b) "Charter school" means an open-enrollment charter school operating under Subchapter D, Chapter 12, Education Code.

(1-c) "Commission" means the Texas Ethics Commission.

(1-d) "Contract" means a written agreement for the sale or purchase of real property, goods, or services.

(2) "Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code.

(2-a) "Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code.

(2-b) "Gift" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.

(2-c) "Goods" means personal property.

(2-d) "Investment income" means dividends, capital gains, or interest income generated from:

(A) a personal or business:

(i) checking or savings account;

(ii) share draft or share account; or

(iii) other similar account;

(B) a personal or business investment; or

(C) a personal or business loan.

(3) "Local governmental entity" means a county, municipality, school district, charter school, junior college district, water district created under Subchapter B, Chapter 49, Water Code, or other political subdivision of this state or a local government corporation, board, commission, district, or authority to which a member is appointed by the commissioners court of a county, the mayor of a municipality, or the governing body of a municipality. The term does not include an association, corporation, or organization of governmental entities organized to provide to its members education, assistance, products, or services or to represent its members before the legislative, administrative, or judicial branches of the state or federal government.

(4) "Local government officer" means:

(A) a member of the governing body of a local governmental entity;

(B) a director, superintendent, administrator,

president, or other person designated as the executive officer of a local governmental entity; or

(C) an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor.

(5) "Records administrator" means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under this chapter and perform related functions.

(6) "Services" means skilled or unskilled labor or professional services, as defined by Section 2254.002, Government Code.

(7) "Vendor" means a person who enters or seeks to enter into a contract with a local governmental entity. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Sec. 1, eff. June 18, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Sec. 1, eff. May 25, 2007.
Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 1, eff. September 1, 2015.

Sec. 176.002. APPLICABILITY TO VENDORS AND OTHER PERSONS. (a) This chapter applies to a person who is:

(1) a vendor; or

(2) a local government officer of a local governmental entity.

(b) A person is not subject to the disclosure requirements of this chapter if the person is:

(1) a state, a political subdivision of a state, the federal government, or a foreign government; or

(2) an employee or agent of an entity described by

Subdivision (1), acting in the employee's or agent's official capacity.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Sec. 1, eff. June 18, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Sec. 2, eff. May 25, 2007.
Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 2, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 3, eff. September 1, 2015.

Sec. 176.003. CONFLICTS DISCLOSURE STATEMENT REQUIRED. (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(1) the vendor enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the vendor; and

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor; or

(C) has a family relationship with the local government

officer.

(a-1) A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

(1) a political contribution as defined by Title 15, Election Code; or

(2) food accepted as a guest.

(a-2) A local government officer is not required to file a conflicts disclosure statement under Subsection (a) if the local governmental entity or vendor described by that subsection is an administrative agency created under Section 791.013, Government Code.

(b) A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement under Subsection (a).

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 989 , Sec. 9(1), eff. September 1, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 989 , Sec. 9(1), eff. September 1, 2015.

(e) The commission shall adopt the conflicts disclosure statement for local government officers for use under this section. The conflicts disclosure statement must include:

(1) a requirement that each local government officer disclose:

(A) an employment or other business relationship described by Subsection (a)(2)(A), including the nature and extent of the relationship; and

(B) gifts accepted by the local government officer and any family member of the officer from a vendor during the 12-month period described by Subsection (a)(2)(B) if the aggregate value of the gifts accepted by the officer or a family member from that vendor exceeds $100;

(2) an acknowledgment from the local government officer that:

(A) the disclosure applies to each family member of the officer; and

(B) the statement covers the 12-month period described by Subsection (a)(2)(B); and

(3) the signature of the local government officer

acknowledging that the statement is made under oath under penalty of perjury.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Sec. 1, eff. June 18, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Sec. 3, eff. May 25, 2007.
Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 4, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 5, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 9(1), eff. September 1, 2015.

Sec. 176.006. DISCLOSURE REQUIREMENTS FOR VENDORS AND OTHER PERSONS; QUESTIONNAIRE. (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

(b) The commission shall adopt a conflict of interest questionnaire for use under this section that requires disclosure of a vendor's business and family relationships with a local governmental entity.

(c) The questionnaire adopted under Subsection (b) must require, for the local governmental entity with respect to which the questionnaire is filed, that the vendor filing the questionnaire:

(1) describe each employment or business and family relationship the vendor has with each local government officer of the local governmental entity;

(2) identify each employment or business relationship described by Subdivision (1) with respect to which the local government officer receives, or is likely to receive, taxable income, other than investment income, from the vendor;

(3) identify each employment or business relationship described by Subdivision (1) with respect to which the vendor receives, or is likely to receive, taxable income, other than investment income, that:

(A) is received from, or at the direction of, a local government officer of the local governmental entity; and

(B) is not received from the local governmental entity; and

(4) describe each employment or business relationship with a corporation or other business entity with respect to which a local government officer of the local governmental entity:

(A) serves as an officer or director; or

(B) holds an ownership interest of one percent or more.

(d) A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate.

(e) A person who is both a local government officer and a

vendor of a local governmental entity is required to file the questionnaire required by Subsection (a)(1) only if the person:

(1) enters or seeks to enter into a contract with the local governmental entity; or

(2) is an agent of a person who enters or seeks to enter into a contract with the local governmental entity.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 989 , Sec. 9(3), eff. September 1, 2015.

(g) Repealed by Acts 2015, 84th Leg., R.S., Ch. 989 , Sec. 9(3), eff. September 1, 2015.

(h) Repealed by Acts 2015, 84th Leg., R.S., Ch. 989 , Sec. 9(3), eff. September 1, 2015.

(i) The validity of a contract between a vendor and a local governmental entity is not affected solely because the vendor fails to comply with this section.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Sec. 1, eff. June 18, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Sec. 6, eff. May 25, 2007.

Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Sec. 9, eff. May 25, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.005, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 6, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 9(3), eff. September 1, 2015.

Sec. 176.0065. MAINTENANCE OF RECORDS. A records administrator shall:

(1) maintain a list of local government officers of the local governmental entity and shall make that list available to the public and any vendor who may be required to file a conflict of interest questionnaire under Section 176.006; and

(2) maintain the statements and questionnaires that are required to be filed under this chapter in accordance with the local governmental entity's records retention schedule.

Added by Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Sec. 8, eff. May 25, 2007.
Redesignated and amended from Local Government Code, Section 176.011 by Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 7, eff. September 1, 2015.

Sec. 176.008. ELECTRONIC FILING. The requirements of this chapter, including signature requirements, may be satisfied by electronic filing in a form approved by the commission.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Sec. 1, eff. June 18, 2005.

Sec. 176.009. POSTING ON INTERNET. (a) A local governmental entity that maintains an Internet website shall provide access to the statements and to questionnaires required to be filed under this chapter on that website. This subsection does not require a local governmental entity to maintain an Internet website.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 847, Sec. 3(b), eff. January 1, 2014.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Sec. 1, eff. June 18, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Sec. 7, eff. May 25, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 76, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 847 (H.B. 195), Sec. 3(b), eff. January 1, 2014.

Sec. 176.010. REQUIREMENTS CUMULATIVE. The requirements of this chapter are in addition to any other disclosure required by law.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Sec. 1, eff. June 18, 2005.

Sec. 176.012. APPLICATION OF PUBLIC INFORMATION LAW. This chapter does not require a local governmental entity to disclose any information that is excepted from disclosure by Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Sec. 8, eff. May 25, 2007.

Sec. 176.013. ENFORCEMENT. (a) A local government officer commits an offense under this chapter if the officer:

(1) is required to file a conflicts disclosure statement under Section 176.003; and

(2) knowingly fails to file the required conflicts disclosure statement with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

(b) A vendor commits an offense under this chapter if the vendor:

(1) is required to file a conflict of interest questionnaire under Section 176.006; and

(2) either:

(A) knowingly fails to file the required questionnaire with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the vendor becomes aware of the facts that require the filing of the questionnaire; or

(B) knowingly fails to file an updated questionnaire with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in a questionnaire previously filed by the vendor incomplete or inaccurate.

(c) An offense under this chapter is:

(1) a Class C misdemeanor if the contract amount is less than $1 million or if there is no contract amount for the contract;

(2) a Class B misdemeanor if the contract amount is at least $1 million but less than $5 million; or

(3) a Class A misdemeanor if the contract amount is at least $5 million.

(d) A local governmental entity may reprimand, suspend, or

terminate the employment of an employee who knowingly fails to comply with a requirement adopted under this chapter.

(e) The governing body of a local governmental entity may, at its discretion, declare a contract void if the governing body determines that a vendor failed to file a conflict of interest questionnaire required by Section 176.006.

(f) It is an exception to the application of Subsection (a) that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after the date the officer received notice from the local governmental entity of the alleged violation.

(g) It is an exception to the application of Subsection (b) that the vendor filed the required questionnaire not later than the seventh business day after the date the vendor received notice from the local governmental entity of the alleged violation.

Added by Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Sec. 8, eff. September 1, 2015.

CHAPTER 177. LIFE, HEALTH, AND ACCIDENT INSURANCE FOR OFFICIALS, EMPLOYEES, AND RETIREES OF POLITICAL SUBDIVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 177.001. CERTAIN COVERAGE AUTHORIZED. (a) A county or other political subdivision of this state may procure contracts insuring the political subdivision's officials, employees, and retirees or any class of the political subdivision's officials, employees, and retirees under a policy of group life, group health, accident, accidental death and dismemberment, or hospital, surgical, or medical expense insurance.

(b) The dependents of those officials, employees, and retirees may be insured under a group policy that provides:

(1) health insurance; or

(2) hospital, surgical, or medical expense insurance.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1K.002, eff. April 1, 2009.

Sec. 177.002. PAYMENT OF PREMIUMS. (a) A county or other political subdivision of this state that is authorized to procure a

contract insuring the political subdivision's officials, employees, and retirees or any class of the political subdivision's officials, employees, and retirees under a policy of group insurance that covers one or more risks may pay from the local funds of the political subdivision all or any portion of the premiums for the policy. The political subdivision may also pay all or any portion of the premiums on group health, hospital, surgical, or medical expense insurance for dependents of the political subdivision's officials, employees, and retirees.

(b) If authorized by the official, employee, or retiree in writing to make the deduction, the county or other political subdivision may deduct from the person's salary an amount equal to any required contribution by the person to the premiums for the insurance issued under Section 177.001 to the political subdivision as the policyholder.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1K.002, eff. April 1, 2009.

Sec. 177.003. USE OF STATE FUNDS. State funds may not be used to procure a contract under this subchapter or pay premiums under that contract.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1K.002, eff. April 1, 2009.

SUBCHAPTER B. HEALTH AND INSURANCE FUND

Sec. 177.051. FUND AUTHORIZED. (a) A county or other political subdivision of this state may establish a fund to provide insurance authorized by Subchapter A.

(b) A fund established under Subsection (a) shall be known as the "health and insurance fund--employees and dependents."

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1K.002, eff. April 1, 2009.

Sec. 177.052. PAYMENT OF MONEY INTO FUND. There shall be credited to a fund established under this subchapter:

(1) any salary deduction to which an official, employee, or retiree agrees in writing; and

(2) contributions from the county or other political subdivision.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1K.002, eff. April 1, 2009.

Sec. 177.053. USE OF MONEY IN FUND. Payment from a fund established under this subchapter:

(1) is authorized only for the payment of premiums on life, group health, accident, accidental death and dismemberment, or hospital, surgical, or medical expense insurance for officials, employees, retirees, and their dependents; and

(2) must be made in accordance with rules adopted by the county or other political subdivision establishing the fund.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1K.002, eff. April 1, 2009.

Sec. 177.054. PAYMENT OF CLAIMS FROM FUND. A claim against a fund established under this subchapter shall be payable in the same manner as other claims of the county or other political subdivision.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1K.002, eff. April 1, 2009.

CHAPTER 177A. ILLNESS OR INJURY LEAVE OF ABSENCE FOR FIREFIGHTERS, POLICE OFFICERS, AND EMERGENCY MEDICAL SERVICES PERSONNEL OF POLITICAL SUBDIVISION

Sec. 177A.001. DEFINITIONS. In this chapter:

(1) "Emergency medical services personnel" means a person described by Section 773.003, Health and Safety Code, who is a paid employee of a political subdivision.

(2) "Firefighter" means a firefighter who is a permanent, paid employee of the fire department of a political subdivision. The term includes the chief of the department. The term does not include a volunteer firefighter.

(3) "Police officer" means a paid employee who is full-time, holds an officer license issued under Chapter 1701, Occupations Code, and regularly serves in a professional law enforcement capacity in the police department of a political subdivision. The term includes the chief of the department.

Added by Acts 2023, 88th Leg., R.S., Ch. 665 (H.B. 471), Sec. 1, eff. June 12, 2023.

Sec. 177A.002. EFFECT ON LABOR AGREEMENTS. Notwithstanding any other law, including Section 142.067, 142.117, 143.207, 143.307, 143.361, 147.004, or 174.005, a collective bargaining, meet and confer, or other similar agreement that provides a benefit for an ill or injured employee must provide a benefit that, at a minimum, complies with this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 665 (H.B. 471), Sec. 1, eff. June 12, 2023.

Sec. 177A.003. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE. (a) A political subdivision shall provide to a firefighter, police officer, or emergency medical services personnel a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the political subdivision shall continue the leave for at least one year.

(b) At the end of the leave of absence under Subsection (a), the governing body of the political subdivision may extend the leave of absence at full or reduced pay.

(c) If the firefighter, police officer, or emergency medical services personnel is temporarily disabled by a line of duty injury or illness and the leave of absence and any extension granted by the governing body has expired, the person may use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

(d) If the leave of absence and any extension granted by the governing body has expired, a firefighter, police officer, or emergency medical services personnel who requires additional leave described by this section shall be placed on temporary leave.

Added by Acts 2023, 88th Leg., R.S., Ch. 665 (H.B. 471), Sec. 1, eff. June 12, 2023.

Sec. 177A.004. RETURN TO DUTY. (a) If able, a firefighter, police officer, or emergency medical services personnel may return to light duty while recovering from a temporary disability. If medically necessary, the light duty assignment may continue for at least one year.

(b) After recovery from a temporary disability, a firefighter, police officer, or emergency medical services personnel shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another firefighter, police officer, or emergency medical services personnel may voluntarily do the work of the injured firefighter, police officer, or emergency medical services personnel until the person returns to duty.

Added by Acts 2023, 88th Leg., R.S., Ch. 665 (H.B. 471), Sec. 1, eff. June 12, 2023.

CHAPTER 178. REMOVAL OF SPECIAL DISTRICT BOARD MEMBERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 178.001. DEFINITIONS. In this chapter:

(1) "Board" means the governing body of a special district.

(2) "Director" means a board member.

(3) "Misconduct" means intentionally or knowingly:

(A) violating a law relating to the office of director; or

(B) misapplying any thing of value belonging to a special district that has come into the custody or possession of a director by virtue of the director's office.

(4) "Special district" means a political subdivision of this state with a limited geographic area created by local law or under general law for a special purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 985 (S.B. 1207), Sec. 1, eff. June 15, 2007.
Renumbered from Local Government Code, Section 177.001 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(65), eff. September 1, 2009.

SUBCHAPTER B. REMOVAL OF APPOINTED BOARD MEMBERS FOR MISCONDUCT

Sec. 178.051. APPLICABILITY. This subchapter applies to any type of special district with a board that is wholly or partly appointed, including:

(1) agricultural development districts;
(2) appraisal districts;
(3) athletic stadium authorities;
(4) civic center authorities;
(5) coastal water authorities;
(6) coordinated county transportation authorities;
(7) conservation and reclamation districts;
(8) county development districts;
(9) county health care funding districts;
(10) county hospital authorities;
(11) county mass transit authorities;
(12) crime control and prevention districts;
(13) defense adjustment management authorities;
(14) defense base development authorities;
(15) districts governing groundwater;
(16) drainage districts;
(17) emergency communication districts;
(18) emergency services districts;
(19) fire control, prevention, and emergency medical services districts;
(20) freight rail districts;
(21) fresh water supply districts;
(22) groundwater conservation districts;
(23) health care funding districts;
(24) health services districts;
(25) higher education facility authorities;
(26) hospital districts;
(27) improvement districts;
(28) indigent health care districts;
(29) intermunicipal commuter rail districts;
(30) irrigation districts;
(31) jail districts;
(32) levee improvement districts;
(33) library districts;

(34) metropolitan rapid transit authorities;
(35) multi-jurisdictional library districts;
(36) municipal development districts;
(37) municipal hospital authorities;
(38) municipal management districts;
(39) municipal utility districts;
(40) navigation districts;
(41) noxious weed control districts;
(42) park and recreation districts;
(43) parks and recreational facilities districts;
(44) port authorities;
(45) public improvement districts;
(46) rail districts;
(47) rapid transit authorities;
(48) regional districts;
(49) regional transportation authorities;
(50) river authorities;
(51) road districts;
(52) road utility districts;
(53) rural rail transportation districts;
(54) rural transit districts;
(55) school districts;
(56) seawall commissions;
(57) solid waste management districts;
(58) soil and water conservation districts;
(59) special utility districts;
(60) sports and community venue districts;
(61) sports facility districts;
(62) stormwater control districts;
(63) subsidence districts;
(64) urban transit districts;
(65) water control and improvement districts;
(66) water control and preservation districts;
(67) water districts;
(68) water import authorities; and
(69) water improvement districts.

Added by Acts 2007, 80th Leg., R.S., Ch. 985 (S.B. 1207), Sec. 1, eff. June 15, 2007.
Renumbered from Local Government Code, Section 177.051 by Acts 2009,

81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(65), eff. September 1, 2009.

Sec. 178.052. EXEMPTIONS. (a) This subchapter does not apply to a regional planning commission under Chapter 391.

(b) This subchapter does not apply to a director who is a county officer under Section 24, Article V, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 985 (S.B. 1207), Sec. 1, eff. June 15, 2007.
Renumbered from Local Government Code, Section 177.052 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(65), eff. September 1, 2009.

Sec. 178.053. REMOVAL OF DIRECTOR BY COMMISSIONERS COURT FOR MISCONDUCT. (a) The commissioners court of a county may remove for misconduct a director who:

(1) serves as a director of a special district located wholly or partly in the county; and

(2) was appointed by the commissioners court.

(b) To the extent of a conflict, this section prevails over any conflicting law.

Added by Acts 2007, 80th Leg., R.S., Ch. 985 (S.B. 1207), Sec. 1, eff. June 15, 2007.
Renumbered from Local Government Code, Section 177.053 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(65), eff. September 1, 2009.

Sec. 178.054. HEARING. (a) A commissioners court that desires to remove a director for misconduct shall hold a hearing on the director's removal.

(b) The director and any interested person is entitled to appear at the hearing.

Added by Acts 2007, 80th Leg., R.S., Ch. 985 (S.B. 1207), Sec. 1, eff. June 15, 2007.
Renumbered from Local Government Code, Section 177.054 by Acts 2009,

81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(65), eff. September 1, 2009.

Sec. 178.055. ORDER REMOVING DIRECTOR. (a) To remove a director of a special district located wholly in one county, the commissioners court of the county must:

(1) find after the hearing that the director engaged in misconduct; and

(2) issue an order removing the director.

(b) To remove a director of a special district located in more than one county:

(1) a commissioners court that appointed the director on its sole authority must find after the hearing that the director engaged in misconduct and issue an order removing the director; or

(2) for a director appointed other than on the sole authority of a single commissioners court, the commissioners court of each county in which the district is located must find after the hearing held by that court that the director engaged in misconduct and issue an order removing the director.

Added by Acts 2007, 80th Leg., R.S., Ch. 985 (S.B. 1207), Sec. 1, eff. June 15, 2007.
Renumbered from Local Government Code, Section 177.055 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(65), eff. September 1, 2009.

Sec. 178.056. VACANCY. (a) If a general or special law that governs the special district does not provide a method for filling a vacancy, the commissioners court that removed the director by order may appoint a director to serve the remainder of the removed director's term.

(b) If the special district is located wholly or partly in more than one county and if the action of more than one commissioners court was needed under Section 178.055(b)(2) to remove the director, the commissioners court of each of those counties must agree on the appointment.

Added by Acts 2007, 80th Leg., R.S., Ch. 985 (S.B. 1207), Sec. 1, eff. June 15, 2007.

Renumbered from Local Government Code, Section 177.056 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(65), eff. September 1, 2009.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(14), eff. September 1, 2009.

CHAPTER 179. AUTHORITY OF CERTAIN FIRST RESPONDERS TO CARRY HANDGUN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 179.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of Public Safety of the State of Texas.

(2) "First responder" has the meaning assigned by Section 46.01, Penal Code.

(3) "Handgun" has the meaning assigned by Section 46.01, Penal Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.

Sec. 179.002. APPLICABILITY OF CHAPTER. This chapter applies only to:

(1) a municipality with a population of 30,000 or less that has not adopted Chapter 174; and

(2) a county with a population of 250,000 or less that has not adopted Chapter 174.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.

Sec. 179.003. CONSTRUCTION OF CHAPTER. (a) This chapter does not create a cause of action or liability.

(b) This chapter may not be construed to waive, under Chapter 101, Civil Practice and Remedies Code, or any other law, a municipality's or county's governmental immunity from suit or to liability.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4,

eff. September 1, 2021.

SUBCHAPTER B. AUTHORITY AND REQUIREMENTS TO CARRY HANDGUN

Sec. 179.051. AUTHORITY OF MUNICIPALITY OR COUNTY TO PROHIBIT OR REGULATE CARRYING HANDGUN. (a) A municipality or county to which this chapter applies and that employs or supervises first responders may not adopt or enforce an ordinance, order, or other measure that generally prohibits a first responder who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, an unexpired certificate of completion from the department under Section 411.1883(d), Government Code, and the required liability policy under Section 179.053 from:

(1) carrying a concealed or holstered handgun while on duty; or

(2) storing a handgun on the premises of or in a vehicle owned or leased by the municipality or county if the handgun is secured with a device approved by the department under Section 411.1883(f), Government Code.

(b) This section does not prohibit a municipality or county from adopting an ordinance, order, or other measure that:

(1) prohibits a first responder from carrying a handgun while on duty based on the conduct of the first responder; or

(2) limits the carrying of a handgun only to the extent necessary to ensure that carrying the handgun does not interfere with the first responder's duties.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(14), eff. September 1, 2023.

Sec. 179.052. AUTHORITY OF EMPLOYERS AND SUPERVISORS. (a) A municipal or county department or private entity that employs or supervises first responders providing services for a municipality or county to which this chapter applies may adopt a policy authorizing a first responder who is employed or supervised by the municipal or county department or private entity and who holds a license to carry

a handgun under Subchapter H, Chapter 411, Government Code, an unexpired certificate of completion from the department under Section 411.1883(d), Government Code, and the required liability policy under Section 179.053 to:

(1) carry a concealed or holstered handgun while on duty; or

(2) store a handgun on the premises of or in a vehicle owned or leased by the applicable municipality or county, or by the private entity if the handgun is secured with a device approved by the department under Section 411.1883(f), Government Code.

(b) A first responder employed or supervised by a municipal or county department or private entity may not engage in conduct described by Subsection (a)(1) or (2) unless the municipal or county department or private entity has adopted a policy under Subsection (a) that authorizes that conduct.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(15), eff. September 1, 2023.

Sec. 179.053. LIABILITY INSURANCE REQUIRED. A first responder shall maintain liability insurance coverage in an amount of at least $1 million if:

(1) the first responder carries a handgun while on duty; and

(2) the handgun is not an essential part of the first responder's duties.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.

Sec. 179.054. STORAGE OF HANDGUN. (a) A first responder who enters a location where carrying a handgun is prohibited by federal law or otherwise shall use a device approved by the department under Section 411.1883(f), Government Code, to secure and store the handgun.

(b) A first responder is responsible for procuring the device

approved by the department under Section 411.1883(f), Government Code, or for reimbursing the first responder's employer or supervisor for the use of a device provided by the employer or supervisor.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(16), eff. September 1, 2023.

Sec. 179.055. DISCHARGE OF HANDGUN. A first responder may discharge a handgun while on duty only in self-defense.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.

Sec. 179.056. LIMITED LIABILITY. (a) A municipality or county that employs or supervises first responders is not liable in a civil action arising from the discharge of a handgun by a first responder who is licensed to carry the handgun under Subchapter H, Chapter 411, Government Code.

(b) The discharge of a handgun by a first responder who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the first responder's duties.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.

Sec. 179.057. COMPLAINTS. A member of the public may submit a complaint to the municipality or county employing or supervising the first responder using the municipality's or county's existing complaint procedure. One or more complaints received with respect to a specific first responder are grounds for prohibiting or limiting that first responder's carrying a handgun while on duty.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.

CHAPTER 180. MISCELLANEOUS PROVISIONS AFFECTING OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

Sec. 180.001. COERCION OF POLICE OFFICER OR FIRE FIGHTER IN CONNECTION WITH POLITICAL CAMPAIGN. (a) An individual commits an offense if the individual coerces a police officer or a fire fighter to participate or to refrain from participating in a political campaign.

(b) An offense under this section is a misdemeanor and is punishable by a fine of not less than $500 or more than $2,000, confinement in the county jail for not more than two years, or both a fine and confinement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 180.002. DEFENSE OF CIVIL SUITS AGAINST PEACE OFFICERS, FIRE FIGHTERS, AND EMERGENCY MEDICAL PERSONNEL. (a) In this section, "peace officer" has the meaning assigned by Article 2A.001, Code of Criminal Procedure.

(b) A municipality or a school district or other special purpose district shall provide a municipal or district employee who is a peace officer, fire fighter, or emergency medical services employee with legal counsel without cost to the employee to defend the employee against a suit for damages by a party other than a governmental entity if:

(1) legal counsel is requested by the employee; and

(2) the suit involves an official act of the employee within the scope of the employee's authority.

(c) To defend the employee against the suit, the municipality or district may provide counsel already employed by it or may employ private counsel.

(d) An employee may recover from a municipality or district that fails to provide counsel as required by Subsection (b) the reasonable attorney's fees incurred in defending the suit if the trier of fact finds:

(1) that the fees were incurred in defending a suit covered by Subsection (b); and

(2) that the employee is without fault or that the employee

acted with a reasonable good faith belief that the employee's actions were proper.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 42(a), eff. Aug. 28, 1989.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 56 (H.B. 1016), Sec. 1, eff. May 18, 2013.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.140, eff. January 1, 2025.

Sec. 180.003. MAXIMUM DUTY HOURS OF PEACE OFFICERS. (a) In a county with a population of 372,000 to 400,000, a sheriff, deputy, constable, or other peace officer of the county or a municipality located in the county may not be required to be on duty more than 48 hours a week unless the peace officer is called on by a superior officer to serve during an emergency as determined by the superior officer.

(b) Hours of duty over 48 hours a week, compiled by a peace officer under Subsection (a), may be treated as overtime and may be deducted from future required hours of duty if:

(1) the overtime is used within one year after it is compiled; and

(2) the peace officer obtains the permission of the superior officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 93, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 72, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 77, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 139, eff. September 1, 2023.

Sec. 180.004. WORKING CONDITIONS FOR PREGNANT EMPLOYEES. (a) In this section, "office" means a municipal or county office, department, division, program, commission, bureau, board, committee, or similar entity.

(b) A municipality or a county shall make a reasonable effort to accommodate an employee of the municipality or county who is determined by a physician to be partially physically restricted by a pregnancy.

(c) If the physician of a municipal or county employee certifies that the employee is unable to perform the duties of the employee's permanent work assignment as a result of the employee's pregnancy and if a temporary work assignment that the employee may perform is available in the same office, the office supervisor who is responsible for personnel decisions shall assign the employee to the temporary work assignment.

Added by Acts 2001, 77th Leg., ch. 533, Sec. 1, eff. Sept. 1, 2001.

Sec. 180.005. APPOINTMENTS TO LOCAL GOVERNING BODIES. (a) In this section, "local government" means a county, municipality, or other political subdivision of this state.

(b) An appointment to the governing body of a local government shall be made as required by the law applicable to that local government and may be made with the intent to ensure that the governing body is representative of the constituency served by the governing body.

(c) A local government that chooses to implement Subsection (b) shall adopt procedures for the implementation.

Added by Acts 2003, 78th Leg., ch. 301, Sec. 8, eff. Sept. 1, 2003.

Sec. 180.006. SOVEREIGN OR GOVERNMENTAL IMMUNITY WAIVED FOR CERTAIN CLAIMS. (a) This section applies only to a firefighter or police officer covered by:

(1) Chapter 141, 142, or 143 or this chapter;

(2) a municipal charter provision conferring civil service benefits of a municipality that has not adopted Chapter 143; or

(3) a municipal ordinance enacted under Chapter 142 or 143.

(b) A firefighter or police officer described by Subsection (a) who alleges the employing municipality's denial of monetary benefits associated with the recovery of back pay authorized under a provision listed in Subsection (a) or a firefighter described by Subsection (a) who alleges the denial of monetary civil penalties associated with

recovery of back pay owed under Section 143.134(h) may seek judicial review of such denial only as provided in Subsections (e) and (f), provided that if there is no applicable grievance, administrative or contractual appeal procedure available under Subsection (e), the firefighter or police officer may file suit against the employing municipality directly in district court under the preponderance of the evidence standard of review.

(c) Sovereign and governmental immunity of the employing municipality from suit and liability is waived only to the extent of liability for the monetary benefits or monetary civil penalties described by Subsection (b). This section does not waive sovereign or governmental immunity from suit or liability for any other claim, including a claim involving negligence, an intentional tort, or a contract unless otherwise provided by the statute.

(d) This section does not:

(1) grant immunity from suit to a local governmental entity;

(2) waive a defense or a limitation on damages, attorney's fees, or costs available to a party to a suit under this chapter or another statute, including a statute listed in Subsection (a)(1); or

(3) modify an agreement under Chapter 142, 143, or 174.

(e) Before seeking judicial review as provided by Subsection (b), a firefighter or police officer must initiate action pursuant to any applicable grievance or administrative appeal procedures prescribed by state statute or agreement and must exhaust the grievance or administrative appeal procedure.

(f) If judicial review is authorized under statute, judicial review of the grievance or administrative appeal decision is under the substantial evidence rule, unless a different standard of review is provided by the provision establishing the grievance or administrative appeal procedure.

(g) This section does not apply to an action asserting a right or claim based wholly or partly, or directly or indirectly, on a referendum election held before January 1, 1980, or an ordinance or resolution implementing the referendum.

Added by Acts 2007, 80th Leg., R.S., Ch. 1200 (H.B. 1473), Sec. 1, eff. June 15, 2007.

Sec. 180.007. PAYMENTS IN EXCESS OF CONTRACTUAL AMOUNT. (a) A political subdivision may not pay an employee or former employee more than an amount owed under a contract with the employee unless the political subdivision holds at least one public hearing under this section.

(b) Notice must be given of the hearing in accordance with notice of a public meeting under Subchapter C, Chapter 551, Government Code.

(c) The governing body of the political subdivision must state the following at the public hearing:

(1) the reason the payment in excess of the contractual amount is being offered to the employee or former employee, including the public purpose that will be served by making the excess payment; and

(2) the exact amount of the excess payment, the source of the payment, and the terms for the distribution of the payment that effect and maintain the public purpose to be served by making the excess payment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 862 (H.B. 483), Sec. 1, eff. June 14, 2013.

Sec. 180.008. PROHIBITION ON USE OF PUBLIC MONEY TO SETTLE OR PAY SEXUAL HARASSMENT CLAIMS. (a) In this section, "political subdivision" means a county, municipality, school district, other special district, or other subdivision of state government.

(b) A political subdivision may not use public money to settle or otherwise pay a sexual harassment claim made against a person who is:

(1) an elected or appointed member of the governing body of the political subdivision; or

(2) an officer or employee of the political subdivision.

Added by Acts 2021, 87th Leg., R.S., Ch. 551 (S.B. 282), Sec. 2, eff. September 1, 2021.

Sec. 180.009. PAID QUARANTINE LEAVE FOR FIRE FIGHTERS, PEACE OFFICERS, DETENTION OFFICERS, AND EMERGENCY MEDICAL TECHNICIANS. (a) In this section:

(1) "Detention officer" means an individual appointed or employed by a political subdivision as a county jailer or other individual responsible for the care and custody of individuals incarcerated in a county or municipal jail.

(2) "Emergency medical technician" means an individual who is:

(A) certified as an emergency medical technician under Chapter 773, Health and Safety Code; and

(B) employed by a political subdivision.

(3) "Fire fighter" means a paid employee of a municipal fire department or emergency services district who:

(A) holds a position that requires substantial knowledge of fire fighting;

(B) has met the requirements for certification by the Texas Commission on Fire Protection under Chapter 419, Government Code; and

(C) performs a function listed in Section 143.003(4)(A).

(4) "Health authority" has the meaning assigned by Section 121.021, Health and Safety Code.

(5) "Peace officer" means an individual described by Article 2A.001, Code of Criminal Procedure, who is elected for, employed by, or appointed by a political subdivision.

(b) The governing body of a political subdivision shall develop and implement a paid quarantine leave policy for fire fighters, peace officers, detention officers, and emergency medical technicians who are employed by, appointed by, or elected for the political subdivision and ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

(c) A paid quarantine leave policy must:

(1) provide that a fire fighter, peace officer, detention officer, or emergency medical technician on paid quarantine leave receive:

(A) all employment benefits and compensation, including leave accrual, pension benefits, and health benefit plan benefits for the duration of the leave; and

(B) reimbursement for reasonable costs related to the quarantine, including lodging, medical, and transportation; and

(2) require that the leave be ordered by the person's supervisor or the political subdivision's health authority.

(d) A political subdivision may not reduce a fire fighter's, peace officer's, detention officer's, or emergency medical technician's sick leave balance, vacation leave balance, holiday leave balance, or other paid leave balance in connection with paid quarantine leave taken in accordance with a policy adopted under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 685 (H.B. 2073), Sec. 2, eff. June 15, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.141, eff. January 1, 2025.
Redesignated from Local Government Code, Section 180.008 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(29), eff. September 1, 2023.

Sec. 180.010. REMOVAL FOR CERTAIN CRIMINAL OFFENSES. (a) In this section, "qualifying offense" means a criminal offense involving:

(1) bribery;
(2) theft of public money;
(3) perjury;
(4) coercion of public servant or voter;
(5) tampering with governmental record;
(6) misuse of official information;
(7) abuse of official capacity; or
(8) conspiracy or the attempt to commit any of the offenses described by this subsection.

(b) A person who holds an elected or appointed office of a political subdivision is automatically removed from and vacates the office on the earlier of the date the person:

(1) enters a plea of guilty or nolo contendere to a qualifying offense;
(2) receives deferred adjudication for a qualifying offense; or
(3) is convicted of a qualifying offense.

(c) The governing body of a political subdivision shall at the first regularly scheduled meeting of the governing body for which notice is required under Chapter 551, Government Code, following the

date an officer of the political subdivision is removed from office under this section:

(1) order an election on the question of filling the vacancy to be held on the first day that allows sufficient time to comply with other requirements of law, if an election is required to fill the vacancy; or

(2) fill the vacancy in the manner provided by law, if an election is not required.

Added by Acts 2023, 88th Leg., R.S., Ch. 1048 (S.B. 232), Sec. 1, eff. September 1, 2023.

Text of section as added by Acts 2025, 89th Leg., R.S., Ch. 879 (S.B. 2237), Sec. 1

For text of section as added by Acts 2025, 89th Leg., R.S., Ch. 261 (H.B. 198), Sec. 2, see other Sec. 180.011.

For text of section as added by Acts 2025, 89th Leg., R.S., Ch. 1175 (H.B. 762), Sec. 1, see other Sec. 180.011.

Sec. 180.011. LIMITATION ON SEVERANCE PAY FOR EXECUTIVE EMPLOYEES. (a) In this section:

(1) "Misconduct" means an act or omission by an employee of a political subdivision in the performance of the employee's duties that the governing body of the political subdivision determines to be misconduct. The term includes any finding of criminal conduct.

(2) "Severance pay" means dismissal or separation income paid on termination of the employment of an employee that is in addition to the employee's usual earnings from the employer at the time of termination.

(b) A person is an executive employee of a political subdivision for purposes of this section if the person is:

(1) a chief executive officer of a political subdivision other than a school district;

(2) an agency or department head; or

(3) the superintendent of a school district or the chief executive officer of an open-enrollment charter school.

(c) A political subdivision that enters into an employment agreement, or renewal or renegotiation of an existing employment agreement, that contains a provision for severance pay with an

executive employee must include:

(1) a requirement that severance pay that is paid from tax revenue may not exceed the amount of compensation, at the rate at the termination of employment, the executive employee would have been paid for 20 weeks, excluding paid time off or accrued vacation leave; and

(2) a prohibition of the provision of severance pay when the executive employee is terminated for misconduct.

(d) A political subdivision shall post each severance agreement in a prominent place on the political subdivision's Internet website.

(e) This subsection applies to an action brought against a political subdivision by an executive employee of the political subdivision arising from the termination of the person's employment. A court may not issue a writ of execution or mandamus in connection with a judgment in the action if the judgment does not comply with this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 879 (S.B. 2237), Sec. 1, eff. September 1, 2025.

Text of section as added by Acts 2025, 89th Leg., R.S., Ch. 1175 (H.B. 762), Sec. 1

For text of section as added by Acts 2025, 89th Leg., R.S., Ch. 261 (H.B. 198), Sec. 2, see other Sec. 180.011.

For text of section as added by Acts 2025, 89th Leg., R.S., Ch. 879 (S.B. 2237), Sec. 1, see other Sec. 180.011.

Sec. 180.011. LIMITATION ON SEVERANCE PAY FOR EMPLOYEES AND INDEPENDENT CONTRACTORS. (a) In this section:

(1) "Misconduct" means an act or omission by an employee or contractor of a political subdivision in the performance of the employee's or contractor's duties that the governing body of the political subdivision determines to be misconduct. The term includes any finding of criminal conduct.

(2) "Severance pay" means dismissal or separation income paid on termination of:

(A) the employment of an employee that is in addition to the employee's usual earnings from the employer at the time of termination; or

(B) the contract of an independent contractor that is in addition to the contractor's usual compensation from the employer as prescribed by the contract.

(b) This section does not apply to a public or teaching hospital.

(c) A political subdivision that enters into a contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, that contains a provision for severance pay with an employee or independent contractor must include:

(1) a requirement that severance pay that is paid from public money may not exceed the amount of compensation, at the rate at the termination of employment or the contract, the employee or independent contractor would have been paid for 20 weeks, excluding paid time off or accrued vacation leave; and

(2) a prohibition of the provision of severance pay when the employee or independent contractor is terminated for misconduct.

(d) A political subdivision shall post each severance agreement in a prominent place on the political subdivision's Internet website.

(e) This subsection applies to an action brought against a political subdivision by an employee or independent contractor of the political subdivision arising from the termination of the person's employment or contract. A court may not issue a writ of execution or mandamus in connection with a judgment in the action if the judgment does not comply with this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 1175 (H.B. 762), Sec. 1, eff. September 1, 2025.

Text of section as added by Acts 2025, 89th Leg., R.S., Ch. 261 (H.B. 198), Sec. 2

For text of section as added by Acts 2025, 89th Leg., R.S., Ch. 879 (S.B. 2237), Sec. 1, see other Sec. 180.011.

For text of section as added by Acts 2025, 89th Leg., R.S., Ch. 1175 (H.B. 762), Sec. 1, see other Sec. 180.011.

Sec. 180.011. OCCUPATIONAL CANCER SCREENING FOR FIREFIGHTERS. (a) In this section, "firefighter" means an individual defined as fire protection personnel under Section 419.021, Government Code.

(b) A political subdivision that employs firefighters shall offer an occupational cancer screening to each firefighter at no cost to the firefighter in the fifth year of the firefighter's employment, and once every year following the initial screening.

(c) The occupational cancer screening offered under Subsection (b) must be confidential, and in addition to testing for cancer, include:

(1) a urine test;

(2) a pulmonary function test;

(3) an electrocardiogram;

(4) an infectious disease screening;

(5) a breast cancer screening;

(6) a blood test; and

(7) subject to Subsection (d), a chest x-ray.

(d) A firefighter is eligible to receive a chest x-ray during the screening under this section once every five years.

(e) The Texas Commission on Fire Protection shall adopt rules establishing minimum standards for the screening under this section using standards developed by the National Fire Protection Association.

(f) Notwithstanding Subsection (b), a political subdivision that employs firefighters is not required to offer a screening under this section if the political subdivision offers an annual occupational medical examination under a plan submitted to the Texas Commission on Fire Protection no later than February 1 of each year. The plan must be endorsed by a physician and be in substantial compliance with standards developed by the National Fire Protection Association. The Texas Commission on Fire Protection shall adopt rules to implement this subsection.

Added by Acts 2025, 89th Leg., R.S., Ch. 261 (H.B. 198), Sec. 2, eff. June 1, 2026.

TITLE 6. RECORDS

SUBTITLE B. COUNTY RECORDS

CHAPTER 191. GENERAL RECORDS PROVISIONS AFFECTING COUNTIES

Sec. 191.001. COUNTY RECORDER; SEAL; GENERAL DUTIES. (a) As provided by Article V, Section 20, of the Texas Constitution, the county clerk of a county serves as the county recorder.

(b) The county clerk shall use the county court seal to authenticate all of the clerk's official acts as county recorder. The clerk may affix the seal on an original document by stamp, electronic means, facsimile, or other means that legibly reproduces all of the required elements of the seal for the purposes of reproduction.

(c) The county clerk shall record, exactly, without delay, and in the manner provided by this subtitle, the contents of each instrument that is filed for recording and that the clerk is authorized to record.

(d) The county clerk shall keep the records properly indexed and arranged as provided by this subtitle.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 49, eff. Sept. 1, 1989. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 946 (H.B. 1728), Sec. 4, eff. June 14, 2013.

Sec. 191.002. RECORDS TO BE KEPT IN WELL-BOUND BOOKS OR ON MICROFILM OR OTHER MEDIA. When the county clerk records an instrument, the clerk shall do so in a suitable well-bound book. However, this requirement does not apply to an instrument recorded and maintained on microfilm or other medium as provided by Chapters 204 and 205 and rules adopted under those chapters.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 50, eff. Sept. 1, 1989.

Sec. 191.003. EFFECTIVE DATE OF RECORDING. An instrument filed with a county clerk for recording is considered recorded from the time that the instrument is filed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 191.004. ATTESTED COPIES. (a) On demand, the county clerk shall give an attested copy of any instrument that is recorded in the clerk's office.

(b) The fee provided by law for an attested copy shall be paid

to the clerk.

(c) Subsection (a) does not apply to birth and death records maintained under the vital statistics laws of this state as provided by Title 3, Health and Safety Code. The county clerk shall allow access to and give attested copies of those records only as provided by the vital statistics laws, rules adopted under those laws, and Chapter 552, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 43(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 920, Sec. 2, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 1192, Sec. 2, eff. Sept. 1, 2003.

Sec. 191.0041. CERTIFIED COPIES. A certified copy made of an original document on file in a county clerk's office must include:

(1) on each page of the copy:

(A) either:

(i) the clerk's signature or initials; or

(ii) a unique document certification and paginated page number; and

(B) either:

(i) the commissioners court seal on a copy of a document that is not a court document; or

(ii) the court seal on a copy of a court document; and

(2) on the final page of the copy:

(A) the clerk's attestation certifying that the copy is a true and correct copy of the original document filed in the clerk's office;

(B) the number of pages copied; and

(C) the date the copy was issued.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 7 (H.B. 16), Sec. 8.03, eff. December 4, 2025.

Sec. 191.005. EFFECT OF COPY. If made and recorded as provided by law, a transcribed record, a translation of a Spanish archive, a rerecorded deed, any other instrument required by law to be recorded, or a certified copy of such a record has the same effect as the

original record.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 191.006. PUBLIC ACCESS TO RECORDS. All records belonging to the office of the county clerk to which access is not otherwise restricted by law or by court order shall be open to the public at all reasonable times. A member of the public may make a copy of any of the records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 51, eff. Sept. 1, 1989.

Sec. 191.007. SPECIFICATIONS FOR LEGAL PAPERS; INCREASED FEES. (a) A legal paper presented to a county clerk for filing or for recording in any county must meet the requirements prescribed by Subsections (b) through (g). Except as provided by this section, a county clerk may not impose additional requirements or fees for filing or recording a legal paper.

(b) A page is considered to be one side of a sheet of paper. A page must:

(1) be no wider than 8-1/2 inches and no longer than 14 inches;

(2) have a sufficient weight and substance so that printing, typing, or handwriting on it will not smear or bleed through; and

(3) be printed in type not smaller than eight-point type and be suitable otherwise for reproducing from it a readable record by a photocopy or photostatic or microphotographic process used in the office of the county clerk.

(c) Except as provided by Section 11.008(c), Property Code, a clearly identifying heading, similar to the headings on most commercially supplied printed forms, must be placed at the top of the first page to identify the type or kind of legal paper.

(d) Printing, typing, and handwriting must be clearly legible.

(e) Names must be legibly typed or printed immediately under each signature.

(f) All photostats, photocopies, and other types of reproduction must have black printing, typing, or handwriting on a

white background, commonly known as positive prints.

(g) Riders and attachments must comply with the size requirement prescribed by Subsection (b) and shall not be larger than the size of the page. Only one rider or attachment may be included in or attached to a page.

(h) The filing fee or recording fee for each page of a legal paper that is presented for filing or recording to a county clerk and fails to meet one or more of the requirements prescribed by Subsections (b) through (g) is equal to twice the regular filing fee or recording fee provided by statute for that page. However, the failure of a page to meet the following requirements does not result in a fee increase under this subsection:

(1) the requirement prescribed by Subsection (b)(3) relating to type size; and

(2) provided that the legal paper complies with Section 11.008(c), Property Code, the requirement prescribed by Subsection (c) that a legal paper have a clearly identifying heading.

(i) If a page of a legal paper has more riders or attachments than one, the filing fee or recording fee for each rider or attachment in excess of one is twice the regular filing fee or recording fee provided by statute.

(j) If a page of a legal paper has one or more riders or attachments larger than the permitted size, the filing fee or recording fee for each oversized rider or attachment is twice the regular filing fee or recording fee provided by statute for the rider or attachment.

(k) This section does not authorize a county clerk to refuse to record a legal paper for the reason that it fails to meet one or more of the requirements prescribed by Subsections (b) through (g). Failure to comply with these requirements shall not in any manner alter, amend, impair, or invalidate any document or legal instrument of any type or character and upon recordation by the county clerk the document or legal instrument shall be deemed and considered as fully complying with the provisions of law dealing with the recordation of documents or legal instruments of every type and character.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 20(c), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 555, Sec. 1, eff. Aug. 30, 1993. Amended by:

Acts 2005, 79th Leg., Ch. 45 (S.B. 461), Sec. 2, eff. May 13,

2005.

Acts 2005, 79th Leg., Ch. 1036 (H.B. 1140), Sec. 1, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.006, eff. September 1, 2009.

Sec. 191.008. AUTHORITY TO ESTABLISH COMPUTERIZED ELECTRONIC INFORMATION SYSTEM. (a) The commissioners court of a county by order may provide for the establishment and operation of a computerized electronic information system through which it may provide on a contractual basis direct access to information that relates to all or some county and precinct records and records of the district courts and courts of appeals having jurisdiction in the county, that is public information, and that is stored or processed in the system. The commissioners court may make records available through the system only if the custodian of the records agrees in writing to allow public access under this section to the records.

(b) The commissioners court may:

(1) provide procedures for the establishment, maintenance, and operation of the information system;

(2) establish eligibility criteria for users;

(3) delineate the public information to be available through the system;

(4) set a reasonable fee, charged under a contract, for use of the system; and

(5) consolidate billing and collection of fees and payments under one county department or office.

(c) The commissioners court may contract with a person or other governmental agency for the development, acquisition, maintenance, or operation of:

(1) the information system or any component of the information system, including telecommunication services necessary for access to the system; and

(2) billing and collection services for the system.

Added by Acts 1991, 72nd Leg., ch. 86, Sec. 1, eff. May 15, 1991.

Sec. 191.009. ELECTRONIC FILING AND RECORDING. (a) A county

clerk may accept electronic documents and other instruments by electronic filing and record the electronic documents and other instruments electronically if the filing or recording complies with the rules adopted by the Texas State Library and Archives Commission under Chapter 195.

(b) An electronic document or other instrument that is filed electronically in compliance with the rules adopted under Chapter 195 is considered to have been filed in compliance with any law relating to the filing of instruments with a county clerk.

(c) For purposes of this section:

(1) an instrument is an electronic record, as defined by Section 322.002, Business & Commerce Code; and

(2) "electronic document" has the meaning assigned by Section 15.002, Property Code.

Added by Acts 1999, 76th Leg., ch. 58, Sec. 1, eff. May 10, 1999.
Amended by Acts 2001, 77th Leg., ch. 702, Sec. 2, eff. January 1, 2002.
Amended by:

Acts 2005, 79th Leg., Ch. 699 (S.B. 335), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.23, eff. April 1, 2009.

Sec. 191.010. AUTHORITY TO REQUIRE PHOTO IDENTIFICATION TO FILE CERTAIN DOCUMENTS. (a) In this section, "photo identification" means one of the following forms of photo identification:

(1) a driver's license, election identification certificate, or personal identification card issued to the person by any state or territory of the United States that has not expired or that expired no earlier than 60 days before the date of presentation;

(2) a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation;

(3) a United States citizenship certificate issued to the person that contains the person's photograph;

(4) a United States Permanent Resident Card that has not expired or that expired no earlier than 60 days before the date of presentation;

(5) an identification card issued by a municipality intended to serve as a general identification card for the holder that has not expired or that expired no earlier than 60 days before the date of presentation;

(6) a federally recognized tribal enrollment card or other form of tribal identification that has not expired or that expired no earlier than 60 days before the date of presentation;

(7) a United States passport or a passport issued by a foreign government recognized by the United States issued to the person that has not expired or that expired no earlier than 60 days before the date of presentation; or

(8) a license to carry a concealed handgun issued to the person by the Department of Public Safety that has not expired or that expired no earlier than 60 days before the date of presentation.

(b) A county clerk shall require a person presenting a document in person for filing in the real property records of the county to present a photo identification to the clerk. The clerk shall copy the photo identification or record information from the photo identification. The clerk may not charge a person a fee to copy or record the information from a photo identification.

(c) Information copied or recorded from the photo identification is confidential.

(d) A document filed with a county clerk is not invalid solely because the county clerk did not copy a photo identification or record the information from the photo identification.

Added by Acts 2015, 84th Leg., R.S., Ch. 1040 (H.B. 1681), Sec. 1, eff. June 19, 2015.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 714 (H.B. 3415), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 398 (H.B. 1195), Sec. 1, eff. June 9, 2023.

Acts 2025, 89th Leg., 2nd C.S., Ch. 16 (S.B. 16), Sec. 6, eff. December 4, 2025.

Acts 2025, 89th Leg., 2nd C.S., Ch. 16 (S.B. 16), Sec. 7, eff. December 4, 2025.

Sec. 191.011. AUTHORITY OF CLERKS TO OBTAIN AND RETAIN

IDENTIFYING INFORMATION IN CERTAIN COUNTIES. (a) In this section:

(1) "Biometric information" means a retina or iris scan, digital or electronic fingerprint scan, voiceprint, or record of hand or face geometry.

(2) "Electronic storage" has the meaning assigned by Section 205.001.

(3) "Ex officio service" has the meaning assigned by Section 118.023.

(4) "Identifying information" means information in any form, other than biometric information, that may be used to identify an individual. The term includes information derived from:

(A) a driver's license, personal identification card, or other document, regardless of the intended use of the document;

(B) a photograph;

(C) a recording of the individual's image or voice, including a video or audio recording; or

(D) any other physical or electronic source.

(5) "Public service" means a service related to an official governmental power, duty, program, or activity. The term does not include an incidental service provided only as a courtesy to a member of the public.

(b) A county clerk or district clerk in a county that allows for electronic filing or recording of documents or other instruments may require an individual to present photo identification and copy or record identifying information, including a document on which the information is viewable, if the individual:

(1) presents a document or other instrument for filing or recording to the county clerk or district clerk; or

(2) requests or obtains an ex officio service or other public service provided by the county clerk or district clerk.

(b-1) A county clerk or district clerk who requires an individual to present photo identification under Subsection (b) may not accept a document or other instrument for filing or recording if the individual presents the document or other instrument in person and does not have or refuses to provide a photo identification.

(c) A county clerk or district clerk may maintain identifying information copied or recorded under this section in an electronic storage format.

(d) Except as otherwise required or authorized by law, a county clerk or district clerk may not charge a fee to copy or record

identifying information.

(e) Identifying information copied or recorded under this section is confidential except for use in a criminal investigation or prosecution or a related civil court proceeding.

Added by Acts 2017, 85th Leg., R.S., Ch. 899 (H.B. 3492), Sec. 1, eff. June 15, 2017.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 398 (H.B. 1195), Sec. 2, eff. June 9, 2023.

CHAPTER 192. INSTRUMENTS TO BE RECORDED BY COUNTIES

Sec. 192.001. GENERAL ITEMS. The county clerk shall record each deed, mortgage, or other instrument that is required or permitted by law to be recorded.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 192.0015. SUBDIVISION PLAT. In recording a plat or replat of a subdivision of real property, the county clerk and a deputy of the clerk are subject to the requirements and prohibitions established by Section 12.002, Property Code.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 3.07, eff. Sept. 1, 1989.

Sec. 192.002. MILITARY DISCHARGE RECORDS. (a) The county clerk shall record the official discharge of persons who after 1915 have served as members of the United States armed forces, the United States armed forces reserve, or an armed forces auxiliary.

(b) The county clerk may not charge a fee for the recording and keeping of a military discharge record.

(c)(1) This subsection applies only in relation to a military discharge record that is recorded with a county clerk under this section before September 1, 2003.

(2) The veteran who is the subject of the record or the legal guardian of the veteran may direct, in writing, that the county clerk destroy all copies of the record that the county clerk makes

readily available to the public for purposes of Section 191.006, such as paper copies of the record in the county courthouse or a courthouse annex, microfilm or microfiche copies of the record in the county courthouse or a courthouse annex, and electronic copies of the record that are available to the public. The county clerk shall comply with the direction within 15 business days after the date the direction is received. The county clerk's compliance does not violate any law of this state relating to the preservation, destruction, or alienation of public records. The direction to destroy the copies of the record, the county clerk's compliance, and any delay between the time the direction is made and the time the county clerk destroys the copies may not be used to limit or restrict the public's access to the real property records of the county.

(3) A county clerk who receives a request under Chapter 552, Government Code, for inspection or duplication of a military discharge record recorded before September 1, 2003, is only required to search for the record in places where or media in which the county clerk makes records readily available to the public for purposes of Section 191.006, such as paper records stored in the county courthouse or a courthouse annex, microfilmed or microfiched records stored in the county courthouse or a courthouse annex, and electronically stored records made available to the public. This subdivision does not apply to a request made by the veteran who is the subject of the military discharge record or the legal guardian of the veteran.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 438, Sec. 2, eff. Sept. 1, 2003.

Sec. 192.003. RECORDS OF NEW OR ENLARGED COUNTY. (a) If a new county is created in whole or in part from the territory of another county or if territory is added to an existing county from another county, the commissioners court of the new county or the enlarged county shall require the county clerk to rerecord each deed, mortgage, conveyance, encumbrance, or muniment of title that affects or relates to real property in the territory taken from the other county and that is recorded in the other county. If the territory is acquired from more than one county, the clerk shall maintain separate sets of records for the records obtained from each county. The

records shall be indexed and arranged as provided by law.

(b) After the records are legibly rerecorded, the county clerk or the clerk's deputies who rerecorded them shall compare them with the original record. The county clerk or the clerk's deputies who rerecorded the records shall certify to the correctness of the records under their official oath and shall impress the commissioners court's seal on the records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 192.005. CERTAIN PROBATE RECORDS. The commissioners court of a county may require the county clerk to record any previously unrecorded probate records if the commissioners court determines that the recording is necessary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 192.006. COUNTY COURT RECORDS. (a) The county clerk is the custodian of the records of the county court in civil and criminal cases and in matters of probate. The county clerk shall record each act and proceeding of the county court, record under direction of the judge each judgment of the court, and record the issuance of and return on each execution issued by the court.

(b) The county clerk shall keep the records of the county court properly indexed and arranged.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 52, eff. Sept. 1, 1989.

Sec. 192.007. RECORDS OF RELEASES AND OTHER ACTIONS. (a) To release, transfer, assign, or take another action relating to an instrument that is filed, registered, or recorded in the office of the county clerk, a person must file, register, or record another instrument relating to the action in the same manner as the original instrument was required to be filed, registered, or recorded.

(b) An entry, including a marginal entry, may not be made on a previously made record or index to indicate the new action.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 53, eff. Sept. 1, 1989.

CHAPTER 193. RECORDING AND INDEXING BY COUNTIES

Sec. 193.001. MANNER OF RECORDING. (a) The county clerk shall record instruments filed for recording in the order that they are filed. The clerk shall record each instrument with any acknowledgment, proof, affidavit, or certificate that is attached to it.

(b) The clerk shall note at the foot of the record the date and time that the instrument was filed for recording, but if the instrument was recorded electronically the clerk may note on the first page of the instrument the recording information, including the date and time.

(c) If an instrument that is filed for recording is acknowledged or proved in the manner prescribed by law for record, the clerk shall make a record of the names of the parties to the instrument in alphabetical order, the date of the instrument, the nature of the instrument, and the time that the instrument was filed. If required, the clerk shall give the person who files the instrument a receipt stating this information.

(d) The clerk shall certify under the clerk's signature and seal of office the date and time that the instrument is recorded and the specific location in the records at which the instrument is recorded. After recording the instrument, the clerk shall deliver the instrument to the person who is entitled to it.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 86 (S.B. 580), Sec. 1, eff. May 14, 2007.

Sec. 193.002. CLASSIFICATION AND INDEX OF RECORDS NOT ON MICROFILM. (a) A county clerk or clerk of a county court who does not maintain records on microfilm as provided by Chapter 204 and rules adopted under that chapter may divide the instruments received for filing, registering, or recording into the seven classes provided by Section 193.008(b) and may consolidate records in the manner provided by Section 193.008(d).

(b) Classes of records maintained as provided by this section shall be indexed and cross-indexed, to the extent practicable, as required by Sections 193.009, 193.010, and 193.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 54, eff. Sept. 1, 1989.

Sec. 193.003. INDEX TO REAL PROPERTY RECORDS. (a) The county clerk shall maintain an alphabetical index to all recorded deeds, powers of attorney, mortgages, correction instruments, findings of fact and conclusions of law entered under Section 5.0261, Property Code, and other instruments relating to real property. The index must state the specific location in the records at which the instruments are recorded.

(b) The index must be a cross-index that contains the names of the grantors and grantees in alphabetical order. If a deed is made by a sheriff, the index entry must contain the name of the sheriff and the defendant in execution. If a deed is made by an executor, administrator, or guardian, the index entry must contain the name of that person and the name of the person's testator, intestate, or ward. If a deed is made by an attorney, the index entry must contain the name of the attorney and the attorney's constituents. If a deed is made by a commissioner or trustee, the index entry must contain the name of the commissioner or trustee and the name of the person whose estate is conveyed. The index entry for a correction instrument must contain the names of the grantors and grantees as stated in the correction instrument. The index entry for a finding of fact and conclusion of law entered under Section 5.0261, Property Code, must contain the names of the grantors and grantees as stated in the subject conveyance instrument. The index entry for a paper document described by Section 12.0011(b)(3), Property Code, must contain the names of the grantors and grantees.

(c) This section does not apply to records classified and indexed in the manner required for records on microfilm by Sections 193.008 and 193.009.

(d) In this section, "correction instrument" means an instrument correcting an ambiguity or error in a recorded original instrument of conveyance to transfer real property or an interest in real property as described by Section 5.028 or 5.029, Property Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 55, eff. Sept. 1, 1989. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 189 (S.B. 584), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 678 (S.B. 2128), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 532 (S.B. 30), Sec. 3, eff. September 1, 2021.

Sec. 193.004. INDEX TO JUDGMENTS. (a) The county clerk shall maintain a well-bound alphabetical index to all suits filed in the county court. The index must be a cross-index that states in full and in alphabetical order the names of the parties to a filed suit. The index must state opposite each name the specific location in the records at which the judgment in the case is recorded.

(b) This section does not apply to records classified and indexed in the manner required for records on microfilm by Sections 193.008 and 193.009.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 56, eff. Sept. 1, 1989.

Sec. 193.005. INDEXES TO OTHER RECORDS. (a) In a manner similar to that by which the index to real property records is maintained, the county clerk shall maintain an alphabetical index to all recorded instruments relating to goods, chattels, and other personal property, marriage contracts, and other instruments authorized or permitted to be recorded in the clerk's office.

(b) The clerk also shall maintain a similar index of the records of official bonds. The index for official bonds must include the names of the officers appointed, the names of the obligors on the recorded bonds, and a reference to the specific location in the records where the bonds are recorded.

(c) This section does not apply to records classified and indexed in the manner required for records on microfilm by Sections 193.008 and 193.009.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1248, Sec. 57, eff. Sept. 1, 1989.

Sec. 193.007. TRANSLATION OF COUNTY RECORDS. (a) The commissioners court of a county may require the county clerk to have translated into English and recorded all or part of a county record or archive that is written in Spanish and that relates to a title to real property.

(b) The court may not contract to pay more than 15 cents for each 100 words for the translation and the recording.

(c) An English translation prepared and recorded under this section has the same effect as if the instrument were originally written in English. A person may use a certified copy of the English translation for all purposes for which the original instrument or a certified copy of the original instrument may be used.

(d) Repealed by Acts 1989, 71st Leg., ch. 1248, Sec. 85(4), eff. Sept. 1, 1989.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 85(4), eff. Sept. 1, 1989.

Sec. 193.008. CLASSIFICATION OF RECORDS ON MICROFILM. (a) If a county clerk or clerk of a county court chooses to maintain records on microfilm as provided by Chapter 204 and rules adopted under that chapter, the clerk shall divide the instruments received for filing, registering, or recording into seven classes for recording on microfilm.

(b) The seven classes of microfilm records are:

(1) records relating to real property, known as "Official Public Records of Real Property";

(2) records relating to receivables, chattels, and personal property, known as "Official Public Records of Personal Property and Chattels";

(3) records relating to probate matters, known as "Official Public Records of Probate Courts";

(4) records relating to county civil court matters, known as "Official Public Records of County Civil Courts";

(5) records relating to county criminal court matters, known as "Official Public Records of County Criminal Courts";

(6) records relating to matters in the commissioners court, known as "Official Public Records of Commissioners Court"; and

(7) records relating to an individual, a business entity, or a governmental agency, other than a property record or a court record, known as "Official Public Records of Governmental, Business, and Personal Matters."

(c) The clerk shall record each class of record on a separate series of rolls of microfilm or in a separate series of discrete groups of discrete microfilm images. Each roll of microfilm or separate series of groups of microfilm images is considered to be a bound volume or book.

(d) The clerk may consolidate the records described by Subsections (b)(1) and (7) into a single class known as "Official Public Records."

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 58, eff. Sept. 1, 1989.

Sec. 193.009. INDEXING OF RECORDS ON MICROFILM. (a) An instrument that is recorded and classified on microfilm as provided by Section 193.008 must be alphabetically indexed and cross-indexed in the indexes to that official public record under the names of the parties identified in the instrument.

(b) The index entry for an instrument recorded in the official public records of real property, personal property and chattels, or governmental, business, and personal matters must give:

(1) the names of the parties to the instrument;

(2) a brief description of the nature of the instrument;

(3) the date of filing;

(4) a brief description of the property, if any; and

(5) the location of the microfilm image of the instrument by roll or group number and by image number, or by another suitable method permissible under rules adopted under Chapter 204.

(c) The index entry for an instrument recorded in the official public records of probate courts, county civil courts, county criminal courts, or the commissioners court must give information that would assist in further identifying the cause or action, including:

(1) the names of the parties to the action, except an action in the commissioners court;

(2) the nature of the cause or action;
(3) the date the cause or action was opened or taken;
(4) the court in which the cause or action lies;
(5) the docket number; and
(6) the location of the microfilm image of the instrument by roll or group number and by image number, or by another suitable method permissible under rules adopted under Chapter 204.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 58, eff. Sept. 1, 1989.

Sec. 193.010. REVISION OF INDEXES OF RECORDS ON MICROFILM. (a) The indexes must be periodically revised throughout the year to obtain a complete alphabetical index to each of the classes of official public records for each calendar year.

(b) The clerk may not make a marginal entry to a previously completed index.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 58, eff. Sept. 1, 1989.

Sec. 193.011. REGISTERS OF COURT RECORDS ON MICROFILM. (a) A current register of court docket numbers must be maintained in numerical order for each type of court record included in an official public record.

(b) An entry in a register maintained under this section must include essentially the same information as is included in the equivalent index entry under Section 193.009.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 58, eff. Sept. 1, 1989.

Sec. 193.012. RETURN OF ORIGINAL INSTRUMENTS. After an original instrument that is not involved in or related to a court matter or proceeding has been microfilmed and the microfilm has satisfied the requirements of Chapter 204 and rules adopted under that chapter, the county clerk shall return the original instrument to the person who filed it for record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 58, eff. Sept. 1, 1989.

Sec. 193.013. COMPUTERIZED INDEX FOR CERTAIN RECORDS. An index for a record listed in Section 193.008(b) may be stored or maintained by computer if a security or backup copy of the index is created on a daily basis and stored in a climate-controlled location that is equipped with fire alarms and sprinklers. The storage location must be separate from the building in which the computer is located.

Added by Acts 1989, 71st Leg., ch. 1064, Sec. 1, eff. June 16, 1989. Renumbered from Sec. 194.0065 and amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.06(a), eff. Sept. 1, 1999.

CHAPTER 195. ELECTRONIC FILING OF RECORDS WITH AND RECORDING BY COUNTY CLERK

Sec. 195.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Director and librarian" means the executive and administrative officer of the Texas State Library and Archives Commission.

(3) "Electronic document" has the meaning assigned by Section 15.002, Property Code.

Added by Acts 1999, 76th Leg., ch. 58, Sec. 2, eff. May 10, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 699 (S.B. 335), Sec. 3, eff. September 1, 2005.

Sec. 195.002. ADOPTION OF RULES. (a) The commission shall adopt rules by which a county clerk may accept electronic documents and other instruments by electronic filing and record electronic documents and other instruments electronically under Section 191.009.

(b) The rules must provide for:

(1) the electronic filing with and recording by the county clerk of:

(A) real property records; and

(B) except for records maintained under Section 192.006, other instruments filed with and recorded by the county clerk as determined by the commission;

(2) the means by which an electronic document or other

instrument may be electronically transmitted to a county clerk for filing;

(3) the means by which a county clerk may electronically record an electronic document or other instrument filed electronically;

(4) requiring that the means adopted under Subdivision (2) or (3) be generally available, nonproprietary technology; and

(5) security standards to prevent the filing and recording of fraudulent electronic documents or other instruments or alteration of electronic documents or other instruments that were previously filed and recorded electronically.

(c) Rules adopted by the commission under this section that permit the use of digital signatures in the electronic filing of electronic documents or other instruments with the county clerk must be, to the extent practicable, consistent with rules governing digital signatures adopted by the Department of Information Resources under Section 2054.060, Government Code.

(d) Before adopting or amending a rule under this section, the commission shall consider the recommendations of the Electronic Recording Advisory Committee established under Section 195.008.

(e) Notwithstanding Sections 322.017 and 322.018, Business & Commerce Code, a county clerk may accept any filed electronic record, as defined by Section 322.002, Business & Commerce Code, or electronic document and may electronically record that electronic document or record if the filing and recording of that electronic document or record complies with rules adopted by the commission under this section.

Added by Acts 1999, 76th Leg., ch. 58, Sec. 2, eff. May 10, 1999. Amended by Acts 2001, 77th Leg., ch. 702, Sec. 3, eff. January 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 699 (S.B. 335), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.24, eff. April 1, 2009.

Sec. 195.003. PERSONS AUTHORIZED TO FILE ELECTRONICALLY. (a) The following persons may file electronic documents or other

documents electronically for recording with a county clerk that accepts electronic filing and recording under this chapter:

(1) an attorney licensed in this state;

(2) a bank, savings and loan association, savings bank, or credit union doing business under laws of the United States or this state;

(3) a federally chartered lending institution, a federal government-sponsored entity, an instrumentality of the federal government, or a person approved as a mortgagee by the United States to make federally insured loans;

(4) a person licensed to make regulated loans in this state;

(5) a title insurance company or title insurance agent licensed to do business in this state;

(6) an agency of this state; or

(7) a municipal clerk.

(a-1) In addition to persons listed under Subsection (a), a county may authorize a person to file electronic documents or other documents electronically for recording with a county clerk if the county enters into a memorandum of understanding with the person for that purpose. This subsection applies only to a county with a population of 500,000 or more.

(b) A fee may not be charged to a person authorized to file under this section, except as provided by Section 195.006 or 195.007.

Added by Acts 1999, 76th Leg., ch. 58, Sec. 2, eff. May 10, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 699 (S.B. 335), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 21, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 793 (S.B. 1437), Sec. 1, eff. June 14, 2013.

Sec. 195.004. NOTICE OF CONFIRMATION. (a) A county clerk that accepts electronic filing and recording under this chapter shall confirm or reject an electronic filing of an electronic document or other instrument not later than the first business day after the date the electronic document or other instrument is filed. Notice under

this section must be made:

(1) by electronic means if possible; or

(2) if notice under Subdivision (1) is not possible, by telephone or electronic facsimile machine.

(b) If the county clerk fails to provide notice of rejection within the time provided by Subsection (a), the electronic document or other instrument is considered accepted for filing and may not subsequently be rejected.

Added by Acts 1999, 76th Leg., ch. 58, Sec. 2, eff. May 10, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 699 (S.B. 335), Sec. 4, eff. September 1, 2005.

Sec. 195.005. TIME ELECTRONIC DOCUMENT OR OTHER INSTRUMENT CONSIDERED FILED OR RECORDED. An electronic document or other instrument that is recorded electronically under this chapter is considered to be recorded in compliance with a law relating to the recording of electronic documents or other instruments as of the county clerk's business day on which the electronic document or other instrument is filed electronically. An electronic document or other instrument filed electronically under this chapter must be recorded as timely as an instrument filed by any other means.

Added by Acts 1999, 76th Leg., ch. 58, Sec. 2, eff. May 10, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 699 (S.B. 335), Sec. 4, eff. September 1, 2005.

Sec. 195.006. ADDITIONAL FEE PROHIBITED. The fee to file or record an electronic document or other instrument electronically under this chapter is the same as the fee for filing or recording the instrument by other means, and a county clerk may not charge an additional fee for filing or recording an electronic document or other instrument electronically under this chapter.

Added by Acts 1999, 76th Leg., ch. 58, Sec. 2, eff. May 10, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 699 (S.B. 335), Sec. 4, eff. September

1, 2005.

Sec. 195.007. ACCESS TO ELECTRONIC DOCUMENT OR OTHER INSTRUMENT RECORDED ELECTRONICALLY. (a) An electronic document or other instrument filed or recorded electronically must be available for public inspection in the same manner and at the same time as an instrument filed or recorded by other means.

(b) The county clerk shall provide a requestor, as defined by Section 552.003, Government Code, of an electronic document or other instrument filed or recorded electronically under this chapter with electronic copies of the electronic document or other instrument in a form that is capable of being processed by the use of technology that is generally available and nonproprietary in nature. The county clerk shall provide the copies to the requestor at the cost of producing the copies in accordance with Section 552.262, Government Code.

Added by Acts 1999, 76th Leg., ch. 58, Sec. 2, eff. May 10, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 699 (S.B. 335), Sec. 4, eff. September 1, 2005.

Sec. 195.008. ELECTRONIC RECORDING ADVISORY COMMITTEE. (a) The Electronic Recording Advisory Committee shall be appointed as required by this section to recommend to the commission initial and subsequent rules to be adopted under this chapter.

(b) The committee consists of:

(1) the following persons appointed by the director and librarian:

(A) one person who is employed by or is an officer of a title insurance agent or title insurance company;

(B) an officer or employee of a federal government-sponsored entity;

(C) a person who as a usual business practice obtains copies of recorded instruments from a county clerk to maintain an abstract or title plant; and

(D) a public representative;

(2) two persons who are county judges or county

commissioners appointed by the County Judges and Commissioners Association of Texas;

(3) four county clerks appointed by the County and District Clerks' Association of Texas;

(4) three persons who are employed by or officers of different title insurance agents or companies appointed by the Texas Land Title Association;

(5) the presiding officer of the Title Insurance Subcommittee of the Real Estate, Probate, and Trust Law section of the State Bar of Texas or the functional equivalent of that subcommittee;

(6) the attorney general or a person designated by the attorney general;

(7) the comptroller or a person designated by the comptroller;

(8) the executive director of the Texas Facilities Commission or a person designated by the executive director;

(9) the executive director of the Department of Information Resources or a person designated by the executive director; and

(10) the director and librarian or a person designated by the director and librarian, who also serves as presiding officer of the committee.

(c) A member of the committee serves a term of two years that expires on August 31 of each odd-numbered year.

(d) A vacancy in the membership of the committee is filled in the same manner as the initial appointment and is for the remainder of the unexpired term.

(e) A meeting of the committee is at the call of the presiding officer and is subject to Chapter 551, Government Code.

(f) A member of the committee is not entitled to compensation or reimbursement of expenses from the commission for serving on the committee. A member of the committee who is an employee or officer of a state agency is entitled to compensation and reimbursement of expenses for service on the committee as determined by the state agency of which the member is an officer or employee. Chapter 2110, Government Code, does not apply to the committee.

Added by Acts 1999, 76th Leg., ch. 58, Sec. 2, eff. May 10, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 123, eff.

September 1, 2019.

Sec. 195.009. FILING. For purposes of this chapter, an electronic document or other instrument is filed with the county clerk when it is received by the county clerk, unless the county clerk rejects the filing within the time and manner provided by this chapter and rules adopted under this chapter.

Added by Acts 2001, 77th Leg., ch. 702, Sec. 4, eff. January 1, 2002.
Amended by:
Acts 2005, 79th Leg., Ch. 699 (S.B. 335), Sec. 4, eff. September 1, 2005.

SUBTITLE C. RECORDS PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 201. GENERAL PROVISIONS

Sec. 201.001. SHORT TITLE. This subtitle may be cited as the Local Government Records Act.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.002. PURPOSE. Recognizing that the citizens of the state have a right to expect, and the state has an obligation to foster, efficient and cost-effective government and recognizing the central importance of local government records in the lives of all citizens, the legislature finds that:

(1) the efficient management of local government records is necessary to the effective and economic operation of local and state government;

(2) the preservation of local government records of permanent value is necessary to provide the people of the state with resources concerning their history and to document their rights of citizenship and property;

(3) convenient access to advice and assistance based on well-established and professionally recognized records management techniques and practices is necessary to promote the establishment of sound records management programs in local governments, and the state

can provide the assistance impartially and uniformly; and

(4) the establishment of uniform standards and procedures for the maintenance, preservation, microfilming, or other disposition of local government records is necessary to fulfill these important public purposes.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.003. DEFINITIONS. In this subtitle:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Custodian" means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

(3) "Designee" means an employee of the commission designated by the director and librarian as provided by Section 441.167, Government Code.

(4) "Director and librarian" means the executive and administrative officer of the Texas State Library and Archives Commission.

(5) "Essential record" means any local government record necessary to the resumption or continuation of government operations in an emergency or disaster, to the re-creation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the state.

(6) "Governing body" means the court, council, board, commission, or other body established or authorized by law to govern the operations of a local government. In those instances in which authority over an office or department of a local government is shared by two or more governing bodies or by a governing body and the state, the governing body, for the purposes of this subtitle only, is the governing body that provides most of the operational funding for the office or department.

(7) "Local government" means a county, including all district and precinct offices of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.

(8) "Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

(A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;

(B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;

(C) blank forms;

(D) stocks of publications;

(E) library and museum materials acquired solely for the purposes of reference or display;

(F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, Government Code, or other state law; or

(G) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section 2009.054(c), Government Code, associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

(9) "Office" means any office, department, division, program, commission, bureau, board, committee, or similar entity of a local government.

(10) "Permanent record" or "record of permanent value" means any local government record for which the retention period on a records retention schedule issued by the commission is given as permanent.

(11) "Record" means a local government record.

(12) "Records control schedule" means a document prepared by or under the authority of a records management officer listing the records maintained by a local government or an elective county

office, their retention periods, and other records disposition information that the records management program in each local government or elective county office may require.

(13) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

(14) "Records management officer" means the person identified under Section 203.001 or designated under Section 203.025 as the records management officer.

(15) "Records retention schedule" means a document issued by the Texas State Library and Archives Commission under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records.

(16) "Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 31, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1352, Sec. 3, eff. Sept. 1, 1999.

Sec. 201.004. RECORD BOOKS. If a state law relating to the keeping of records by a local government officer or employee requires the records to be kept in a "book," "record book," or "well-bound book," or contains any similar requirement that a record be maintained in bound paper form, the record whose creation is called for in the provision may be maintained on microfilm or stored electronically in accordance with the requirements of Chapters 204 and 205 and rules adopted under those chapters unless the law

specifically prohibits those methods.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.005. DECLARATION OF RECORDS AS PUBLIC PROPERTY; ACCESS. (a) Local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to the provisions of this subtitle and Subchapter J, Chapter 441, Government Code.

(b) A local government officer or employee does not have, by virtue of the officer's or employee's position, any personal or property right to a local government record even though the officer or employee developed or compiled it.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.006. RECORDS TO BE DELIVERED TO SUCCESSOR IN OFFICE. (a) A custodian of local government records shall, at the expiration of the custodian's term of office, appointment, or employment, deliver to the custodian's successor, if there is one, all local government records in custody. If there is no successor, the governing body shall determine which officer of the local government shall have custody.

(b) If the functions of an office of one local government are assumed by another local government, the governing bodies of the two local governments shall determine in which local government custody of the records of the office shall be vested.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.007. RECORDS OF ABOLISHED LOCAL GOVERNMENTS. (a) If a local government is abolished or declared void pursuant to state law, the records of the local government shall be dealt with according to this section.

(b) After the settlement of the outstanding indebtedness of an abolished municipality and the satisfaction of the other applicable requirements of Chapter 62, Local Government Code, the municipality's governing body at the time the municipality is abolished, or the receiver or trustees if appointed by a court, shall transfer the records of the municipality to the custody of the comptroller. A record of an abolished municipality may not be sold to satisfy an outstanding indebtedness.

(c) After the settlement of the outstanding indebtedness of an abolished special-purpose district or authority, other than a school district, and the satisfaction of the other applicable requirements of state law establishing or permitting the establishment of the district or authority or governing its abolition, the district's governing body at the time the district is abolished shall transfer the records of the district to the custody of the comptroller. A record of an abolished special-purpose district or authority may not be sold to satisfy an outstanding indebtedness.

(d) As an exception to Subsections (b) and (c), if some or all of the functions of an abolished municipality or special-purpose district or authority, other than a school district, are assumed by another local government, the records of the abolished local government relating to the assumed functions shall be transferred to the appropriate offices of the local government assuming the functions.

(e) The records of annexed, consolidated, or abolished school districts shall be transferred as provided by this subsection. The records of an annexed school district shall be transferred to the custody of the governing body of the school district to which the abolished school district has been annexed. The records of each of two or more school districts that have been consolidated shall be transferred to the custody of the governing body of the consolidated school district. The records of an abolished school district whose entire territory is annexed to another school district shall be transferred to the custody of the governing body of that school district. The commissioner of education shall determine to which governing body custody of the records of an abolished school district shall be transferred in those instances in which the territory of the abolished district is divided among two or more school districts.

(f) The cost of the transfer of records to the comptroller under this section shall be paid for out of the funds of the

abolished local government. If funds of the local government are not available for this purpose, the cost of the transfer shall be paid out of the funds of the comptroller.

(g) The records retention schedules issued by the commission shall be used, as far as practicable, as the basis for the retention and disposition of local government records transferred to the custody of the comptroller under this section.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 558, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.99, eff. September 1, 2007.

Sec. 201.008. RECORDS OF ABOLISHED OFFICES OF COUNTY SUPERINTENDENTS OF SCHOOLS. (a) Records of an office of county superintendent of schools or county superintendent of education abolished under former Section 17.95, Education Code, before September 1, 1989, that are still in the possession of a custodian of county records or a county officer shall be transferred to the custody of the commission by order of the director and librarian.

(b) The director and librarian shall determine the time and manner of the transfer of the records on a county-by-county basis. The cost of the transfer shall be paid for out of funds of the commission.

(c) The county judge of a county in which a custodian of county records has possession of the records of an abolished office of the county superintendent of schools may petition the director and librarian to allow the county to retain all or part of the records and the director and librarian may grant the petition.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 6.70, eff. Sept. 1, 1997.

Sec. 201.009. ACCESS TO RECORDS. (a) Local government records are subject to Chapter 552, Government Code.

(b) Any local government record to which public access is denied under Chapter 552, Government Code, including a birth record maintained by a local registrar, is, if still in existence, open to

public inspection 75 years after it was originally created or received. However, a death record maintained by a local registrar is, if still in existence, open to public inspection 55 years after it was originally created or received. This subsection does not limit the authority of a governing body or an elected county officer to establish retention periods for records under Section 203.042.

(c) Subsection (b) does not apply to a local government record whose public disclosure is prohibited by an order of a court or by another state law.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 462 (S.B. 1907), Sec. 2, eff. September 1, 2011.

CHAPTER 202. DESTRUCTION AND ALIENATION OF RECORDS

Sec. 202.001. DESTRUCTION OF RECORDS. (a) A local government record may be destroyed if:

(1) the record is listed on a valid records control schedule and either its retention period has expired or it has been microfilmed or stored electronically in accordance with the requirements of Chapters 204 and 205;

(2) the record appears on a list of obsolete records as provided by Section 203.044; or

(3) the record is not listed on a records retention schedule issued by the commission and the local government provides notice to the commission at least 10 days before destroying the record as required by Section 441.169, Government Code.

(b) The following records may be destroyed without meeting the conditions of Subsection (a):

(1) records the destruction or obliteration of which is directed by an expunction order issued by a court pursuant to state law; and

(2) records defined as exempt from scheduling or filing requirements by rules adopted by the commission or listed as exempt in a records retention schedule issued by the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1149 (H.B. 557), Sec. 9, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 13, eff. September 1, 2019.

Sec. 202.002. LITIGATION AND OPEN RECORDS REQUESTS. (a) Regardless of any other provision of this subtitle or rules adopted under it, a local government record the subject matter of which is known by the custodian to be in litigation may not be destroyed until the litigation is settled.

(b) Regardless of any other provision of this subtitle or rules adopted under it, a local government record subject to a request under Chapter 552, Government Code, may not be destroyed until the request is resolved.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Sec. 202.003. METHOD OF DESTRUCTION. (a) A local government record may be destroyed by burning, shredding, pulping, or burial in a landfill or by sale or donation for recycling purposes except as provided by Subsection (b).

(b) Records to which public access is restricted under Chapter 552, Government Code, or other state law may be destroyed only by burning, pulping, or shredding.

(c) A local government that sells or donates records for recycling purposes shall establish procedures for ensuring that the records are rendered unrecognizable as local government records by the recycler.

(d) The director and librarian may approve other methods of destruction that render the records unrecognizable as local government records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Sec. 202.004. ALIENATION OF RECORDS. (a) A local government record may be sold or donated, loaned, transferred, or otherwise passed out of the custody of a local government to any public institution of higher education, public museum, public library, or other public entity with the approval of the local government's records management officer and after the expiration of the record's retention period under the local government's records control schedule.

(b) A local government record may not be sold or donated (except for the purposes of recycling), loaned, transferred, or otherwise passed out of the custody of a local government to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the director and librarian and after the expiration of its retention period under the local government's records control schedule.

(c) A records management officer or custodian may temporarily transfer a local government record to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 28, eff. Sept. 1, 1995.

Sec. 202.005. RIGHT OF RECOVERY. (a) The governing body may demand and receive from any person any local government record in private possession created or received by the local government the removal of which was not authorized by law.

(b) If the person in possession of a local government record refuses to deliver the record on demand, the governing body may petition the district court of the county in which the person resides for the return of the record. If the court finds that the record is a local government record, the court shall order the return of the record.

(c) As part of the petition to the district court or at any time after its filing, the governing body may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated,

altered, secreted, or removed from the state.

(d) The director and librarian may demand and receive from any person any local government record of permanent value in private possession.

(e) If the person in possession of the local government record of permanent value refuses to deliver the record on demand, the director and librarian may ask the attorney general to petition for the recovery of the record as provided by this section. As part of the petition or at any time after its filing, the attorney general may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.

(f) A local government record recovered as the result of a petition by the attorney general shall be transferred to the custody of the commission or, at the discretion of the director and librarian, be returned to the local government that originally had custody of the record.

(g) If a local government refuses to deliver custody of a record to the commission as provided by Section 201.007, 201.008, or 203.050, the director and librarian may ask the attorney general to petition for recovery of the record. If the court determines that the director and librarian has acted in accordance with Section 201.007, 201.008, or 203.050, as applicable, and with regard to Section 203.050, the court finds that the survival of the record is imperiled, the court shall order the record to be transferred to the custody of the commission.

(h) If a governing body petitions a court for the recovery of a record under Subsection (b) and prevails or if the attorney general petitions a court for the recovery of a record under Subsection (e) or (g) and prevails, the court shall award attorney's fees and court costs to the prevailing party.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 202.006. DESTRUCTION OF NONRECORD MATERIAL. (a) Material that is not included in the definition of a local government record and is described by Section 201.003(8)(A), (B), or (C) may be disposed of at the discretion of the custodian or the creator of the

document, as applicable, subject to any policies developed in each local government or elective county office regarding the destruction.

(b) Extra identical copies of a local government record to which public access is restricted under Chapter 552, Government Code, or other state law may be destroyed only by burning, pulping, or shredding.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Sec. 202.007. PERSONAL LIABILITY. A custodian of local government records, records management officer, or other officer or employee of a local government may not be held personally liable for the destruction of a local government record if the destruction is in compliance with this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 202.008. PENALTY: DESTRUCTION OR ALIENATION OF RECORD. An officer or employee of a local government commits an offense if the officer or employee knowingly or intentionally violates this subtitle or rules adopted under it by destroying or alienating a local government record in contravention of this subtitle or by intentionally failing to deliver records to a successor in office as provided by Section 201.006(a). An offense under this section is a Class A misdemeanor.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 202.009. PENALTY: POSSESSION OF RECORD BY PRIVATE ENTITY. (a) A private college or university, a private museum or library, a private organization of any other type, or an individual commits an offense if the entity knowingly or intentionally acquires or possesses a local government record. An offense under this subsection is a Class A misdemeanor.

(b) It is a defense to prosecution under this section that a private college, university, museum, or library, by agreement with

the commission under Subchapter J, Chapter 441, Government Code, provides physical housing for a local government record the title to which has been vested in the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

CHAPTER 203. MANAGEMENT AND PRESERVATION OF RECORDS

SUBCHAPTER A. ELECTIVE COUNTY OFFICES

Sec. 203.001. RECORDS MANAGEMENT OFFICER. Each elected county officer is the records management officer for the records of the officer's office.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.002. DUTIES AND RESPONSIBILITIES OF ELECTED COUNTY OFFICERS AS RECORDS MANAGEMENT OFFICERS. The elected county officer shall:

(1) develop policies and procedures for the administration of an active and continuing records management program;

(2) administer the records management program so as to reduce the costs and improve the efficiency of recordkeeping;

(3) identify and take adequate steps to preserve records that are of permanent value;

(4) identify and take adequate steps to protect the essential records of the office;

(5) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the records management program and the requirements of this subtitle and rules adopted under it; and

(6) cooperate with the commission in its conduct of statewide records management surveys.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 14, eff. September 1, 2019.

Sec. 203.003. DUTIES OF COMMISSIONERS COURT. The commissioners court of each county shall:

(1) promote and support the efficient and economical management of records of all elective offices in the county to enable elected county officers to conform to this subtitle and rules adopted under it;

(2) facilitate the creation and maintenance of records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of each elective office and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and the persons affected by the activities of the local government;

(3) facilitate the identification and preservation of the records of elective offices that are of permanent value;

(4) facilitate the identification and protection of the essential records of elective offices;

(5) establish a county clerk records management and preservation fund for fees subject to Section 118.0216 and approve in advance any expenditures from the fund; and

(6) establish a records management and preservation account for the records management and preservation fees authorized under Sections 135.101 and 135.102, and approve in advance any expenditures from the fund, which may be spent only for records management preservation or automation purposes in the county.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 675, Sec. 4, eff. Sept. 1, 1993. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.36, eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.12, eff. January 1, 2022.

Sec. 203.004. DIRECTOR AND LIBRARIAN. The director and librarian shall provide advice and assistance to records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.005. RECORDS MANAGEMENT PROGRAM TO BE ESTABLISHED. (a) On or before January 1, 1991, each elected county officer shall adopt a written plan establishing an active and continuing program for the efficient and economical management of the records of the elective office of which the elected officer is custodian.

(b) The plan must provide policies, methods, and procedures to fulfill the duties and responsibilities set out in Section 203.002 concerning the management and preservation of records. The plan may establish additional policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the plan must be filed by the elected county officer with the director and librarian within 30 days after the date of its adoption.

(d) A plan establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the plan is in conflict with this subtitle or a rule adopted under it. A copy of the amended plan shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended plan relating to the establishment or operation of the records management plan must be filed with the director and librarian within 30 days after the date of its adoption.

(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the elected county officer in writing any aspect of a plan filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with requirements of this subtitle or rules adopted under it.

(g) An elected county officer is authorized, instead of or in conjunction with submitting a plan and establishing an independent records program for the elective office, to participate in a county program established as provided by Subchapter B or in one or more specific components of a county program and to authorize the records management officer of the county program to act as the records management officer for the records of the elective office.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. ALL OTHER LOCAL GOVERNMENT OFFICES

Sec. 203.021. DUTIES AND RESPONSIBILITIES OF GOVERNING BODY. The governing body of a local government, including a commissioners court with regard to nonelective county offices, shall:

(1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;

(2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;

(3) facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;

(4) facilitate the identification and preservation of local government records that are of permanent value;

(5) facilitate the identification and protection of essential local government records; and

(6) cooperate with the commission in its conduct of statewide records management surveys.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.022. DUTIES AND RESPONSIBILITIES OF CUSTODIANS. (a) Custodians of records in each local government shall:

(1) cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records and in carrying out the requirements of this subtitle;

(2) adequately document the transaction of government business and the services, programs, and duties for which the custodian and the custodian's staff are responsible; and

(3) maintain the records in the custodian's care and carry out their preservation, microfilming, destruction, or other

disposition only in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it.

(b) State law relating to the duties, other responsibilities, or recordkeeping requirements of a custodian of local government records do not exempt the custodian or the records in the custodian's care from the application of this subtitle and rules adopted under it and may not be used by the custodian as a basis for refusal to participate in the records management program of the local government whose establishment is required by this chapter.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.023. DUTIES OF RECORDS MANAGEMENT OFFICER. The records management officer in each local government shall:

(1) assist in establishing and developing policies and procedures for a records management program for the local government;

(2) administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping;

(3) in cooperation with the custodians of the records, prepare the records control schedules and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044;

(4) in cooperation with custodians, identify and take adequate steps to preserve local government records that are of permanent value;

(5) in cooperation with custodians, identify and take adequate steps to protect essential local government records;

(6) in cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it;

(7) disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies of the government relating to local government records; and

(8) in cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records

management program by the records management officer or those under the officer's authority is carried out with due regard for:

(A) the duties and responsibilities of custodians that may be imposed by law; and

(B) the confidentiality of information in records to which access is restricted by law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 15, eff. September 1, 2019.

Sec. 203.024. DIRECTOR AND LIBRARIAN. The director and librarian shall provide advice and assistance to governing bodies, custodians, and records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.025. DESIGNATION OF RECORDS MANAGEMENT OFFICER. (a) On or before June 1, 1990, the governing body of each local government shall designate a records management officer by:

(1) designating an individual; or

(2) designating an office or position, the holder of which shall be the records management officer.

(b) The name, office, or position of the records management officer shall be entered on the minutes of the governing body.

(c) The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian within 30 days after the date of the designation.

(d) The designation of a new individual or a new office or position shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation.

(e) If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with

the director and librarian within 30 days after the date of assuming the office or position.

(f) Through an agreement or contract under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes), a person may serve as records management officer to more than one local government if the person is employed by one of the local governments that is party to the contract or agreement or employed by an administrative agency that is created by the contract or agreement.

(g) An elected county officer may not be designated as records management officer for the nonelective offices of a county without the county officer's consent.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.026. RECORDS MANAGEMENT PROGRAM TO BE ESTABLISHED. (a) On or before January 1, 1991, each governing body by ordinance or order, as appropriate, shall establish a records management program to be administered by the records management officer.

(b) The ordinance or order must provide methods and procedures to enable the governing body, custodians, and the records management officer to fulfill the duties and responsibilities set out in Sections 203.021, 203.022, and 203.023 concerning the management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the ordinance or order must be filed by the records management officer with the director and librarian within 30 days after the date of its adoption.

(d) An ordinance or order establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the ordinance or order is in conflict with this subtitle or a rule adopted under it. A copy of the amended ordinance or order shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended ordinance or revised order relating to the establishment or operation of the records management program must be filed by the governing body with the director and librarian within 30 days after the date of its adoption.

(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the governing body in writing any aspect of an ordinance or order filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with the requirements of this subtitle or rules adopted under it.

(g) The governing body in a records management program established under this section may require the mandatory destruction of any record of the local government when its retention period has expired on a records control schedule developed under Section 203.041.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER C. RECORDS CONTROL SCHEDULES

Sec. 203.041. PREPARATION OF RECORDS CONTROL SCHEDULES. (a) On or before January 4, 1999, the records management officer shall:

(1) prepare a records control schedule listing the following records and establishing a retention period for each as provided by Section 203.042:

(A) all records created or received by the local government or elective county office;

(B) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has not expired; and

(C) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has expired but which will not be destroyed as provided by Section 203.044; and

(2) file with the director and librarian a written certification of compliance that the local government or the elective county office has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the commission.

(b) At the discretion of the records management officer the records control schedule may also list and provide retention periods

for material that is excluded from the definition of a local government record by Section 201.003(8) and exempted records described by Section 202.001(b) if in the officer's opinion the inclusion of the material or records is necessary to ensure the periodic destruction of the material or records in the interest of efficient records management.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(b)(1), eff. September 1, 2019.

(d) The records management officer shall review the records control schedules of the local government or elective county office and prepare amendments to the schedules as needed to reflect new records created or received by the government or office or revisions to retention periods established in a records retention schedule issued by the commission. The records management officer shall file with the director and librarian a written certification of compliance that the local government or the elective county office has amended the records control schedules to comply with the minimum requirements established on records retention schedules issued by the commission.

(e) The governing body shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the local government as it considers necessary. The records control schedule or amended schedule for an elective county office need only be approved by the elected official in charge of that office.

(f) Records control schedules may be prepared on an office-by-office basis or on a department-by-department basis within each office.

(g) A local government that intends to retain all records permanently or that destroys only those records for which no retention periods have been established in a records retention schedule established under Section 441.158, Government Code, is not required to prepare a records control schedule under this section.

(h) Repealed by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(b)(1), eff. September 1, 2019.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 29, eff. Sept. 1, 1995. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 16, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 17, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(b)(1), eff. September 1, 2019.

Sec. 203.042. RETENTION PERIODS. (a) A retention period for each record on the records control schedule shall be determined by the governing body or under its direction or by the elected county officer, as applicable.

(b) A retention period may not be less than:

(1) a retention period prescribed by a state or federal law, regulation, or rule of court; or

(2) a retention period for the record established on a records retention schedule issued by the commission.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(b)(2), eff. September 1, 2019.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(b)(2), eff. September 1, 2019.

Sec. 203.044. INITIAL DESTRUCTION OF OBSOLETE RECORDS. (a) In preparing a records control schedule required by Section 203.041, the records management officer may list separately those obsolete records no longer created or received by the local government or elective county office whose retention periods on a records retention schedule issued by the commission have expired and that the local government or elected county officer wishes to destroy.

(b) The lists of obsolete records to be destroyed must be reviewed or approved in the same manner as records control schedules must be reviewed or approved under Section 203.041(e).

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(b)(4), eff. September 1, 2019.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(b)(4), eff. September 1, 2019.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(b)(4), eff. September 1, 2019.

Sec. 203.046. RECORDKEEPING REQUIREMENTS. As the governing body may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.047. NEW LOCAL GOVERNMENTS. A local government established after September 1, 1989, shall fulfill the requirements of Sections 203.025, 203.026, and 203.041 within one year after the date of its establishment.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.048. CARE OF RECORDS OF PERMANENT VALUE. The commission shall adopt rules establishing standards for the proper care and storage of local government records of permanent value. The commission may require that certain local government records of permanent value be created on permanent-durable paper, the standards for which shall be established by rule. The rules must be approved as required by Section 441.165, Government Code.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.049. TRANSFER OF RECORDS OF PERMANENT VALUE. (a) The governing body or elected county officer may offer to transfer records of permanent value not needed in the day-to-day business of the local government to the custody of:

(1) the commission; or

(2) another local government that operates an archives, library, or museum that meets standards for the care and storage of permanent records established by the commission as provided by Section 203.048.

(b) Transfers of permanent records to another local government

require the prior approval of the director and librarian.

(c) In a transfer of permanent records under this section, title and control of the records and all rights pertaining to the records granted by law to the original custodian or elected county officer are vested in the commission or the local government that receives the records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.050. INSPECTION OF PERMANENT RECORDS. (a) The director and librarian or the authorized representative of the director and librarian is entitled to inspect in the offices of any local government or elected county officer the condition of any permanent record to which access by the director and librarian or the representative is not restricted by law. The inspection is not a release of a record to a member of the public under Chapter 552, Government Code.

(b) The director and librarian, in writing, shall bring to the attention of the governing body or elected county officer, any aspect of the storage, handling, or use of the record that imperils its survival and state what measures must be taken to properly care for and preserve the record.

(c) If, after having been notified by the director and librarian as provided by Subsection (b), the governing body or the elected county officer fails to take required measures to preserve the record, the director and librarian may:

(1) if the record is an obsolete record whose creation is no longer required by law, demand and receive delivery of the record to the custody of the commission; or

(2) if the record is required for current use by the local government, make copies of the record for the purpose of preservation by the commission.

(d) The cost of transferring or copying records under this section shall be paid for out of funds of the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

SUBCHAPTER D. RECORDS AND INFORMATION PROVIDED TO COMPTROLLER

Sec. 203.061. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a special purpose district described by Section 403.0241(b), Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 564 (S.B. 625), Sec. 2, eff. September 1, 2017.

Sec. 203.062. PROVISION OF CERTAIN RECORDS AND OTHER INFORMATION TO COMPTROLLER. (a) A special purpose district shall transmit records and other information to the comptroller annually for purposes of providing the comptroller with information to operate and update the Special Purpose District Public Information Database under Section 403.0241, Government Code.

(b) The special purpose district may comply with Subsection (a) by affirming that records and other information previously transmitted are current.

(c) The special purpose district shall transmit the records and other information in a form and in the manner prescribed by the comptroller.

Added by Acts 2017, 85th Leg., R.S., Ch. 564 (S.B. 625), Sec. 2, eff. September 1, 2017.

Sec. 203.063. PENALTIES FOR NONCOMPLIANCE. (a) If a special purpose district does not timely comply with Section 203.062, the comptroller shall provide written notice to the special purpose district:

(1) informing the special purpose district of the violation of that section; and

(2) notifying the special purpose district that the special purpose district will be subject to a penalty of $1,000 if the special purpose district does not report the required information on or before the 30th day after the date the notice is provided.

(b) Not later than the 30th day after the date the comptroller provides notice to a special purpose district under Subsection (a), the special purpose district must report the required information.

(c) If a special purpose district does not report the required information as prescribed by Subsection (b):

(1) the special purpose district is liable to the state for a civil penalty of $1,000; and

(2) the comptroller shall provide written notice to the special purpose district:

(A) informing the special purpose district of the liability for the penalty; and

(B) notifying the special purpose district that if the special purpose district does not report the required information on or before the 30th day after the date the notice is provided:

(i) the special purpose district will be subject to an additional penalty of $1,000; and

(ii) the noncompliance will be reflected in the list maintained by the comptroller under Section 403.0242, Government Code.

(d) Not later than the 30th day after the date the comptroller provides notice to a special purpose district under Subsection (c), the special purpose district must report the required information.

(e) If a special purpose district does not report the required information as prescribed by Subsection (d):

(1) the special purpose district is liable to the state for a civil penalty of $1,000; and

(2) the comptroller shall:

(A) reflect the noncompliance in the list maintained under Section 403.0242, Government Code, until the special purpose district reports all information required under Section 203.062; and

(B) provide written notice to the special purpose district that the noncompliance will be reflected in the list until the special purpose district reports the required information.

(f) The attorney general may sue to collect a civil penalty imposed by this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 564 (S.B. 625), Sec. 2, eff. September 1, 2017.

CHAPTER 204. MICROFILMING OF RECORDS

Sec. 204.001. DEFINITIONS. In this chapter:

(1) "Microfilm" means roll microfilm, microfiche, and all other formats produced by any method of microphotography or other means of miniaturization on film.

(2) "Microfilming" means the methods, procedures, and processes used to produce roll microfilm, microfiche, or other microphotographic formats.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.002. AUTHORIZATION. Any local government record may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of this chapter and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.003. MICROFILM PRODUCED UNDER PRIOR LAW. (a) All microfilm produced before June 1, 1990, under prior law is validated to the extent the microfilm was produced in the manner and according to the standards prescribed by prior law.

(b) In rules adopted under Section 204.004, the commission may establish procedures for the retrospective certification of uncertified or improperly certified microfilm produced before April 1, 1990, that otherwise meets the standards prescribed by prior law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.004. STANDARDS AND PROCEDURES. (a) The commission shall adopt rules on or before April 1, 1990, establishing standards and procedures for the microfilming of local government records. The rules must be approved as required by Section 441.165, Government Code.

(b) The rules must prescribe:

(1) standards for film quality, resolution, density, definition, and chemical stability;

(2) tests and other methods of inspection required to establish that prescribed standards have been met;

(3) procedures for verifying that records have been filmed accurately;

(4) procedures for the certification of microfilmed records;

(5) standards for the use of editorial and technical targets on microfilm;

(6) standards for the production of use copies from and the storage of master microfilm negatives;

(7) procedures for the labeling and indexing of microfilmed records;

(8) procedures establishing the manner in which court case papers must be filmed;

(9) procedures for the expunction of criminal records on microfilm pursuant to court order;

(10) standards for computer-output microfilm; and

(11) standards for providing access by the members of the public to records on microfilm to which they are entitled under law.

(c) In rules adopted under this section, the commission may establish differing standards and procedures for the microfilming of:

(1) any permanent record;

(2) any record of a municipal, justice, county, or district court; or

(3) any record to which access is restricted under Chapter 552, Government Code, or other state law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Sec. 204.005. RULES TO BE UPDATED. The director and librarian shall monitor standards relating to microfilming developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of information and records management in order to recommend to the commission any needed amendments to rules.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.006. INDEXING. An index to a microfilm record must show the same information that may be required by state law for an index to the same record if it is not microfilmed.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.007. DESTRUCTION OF ORIGINAL RECORDS. (a) The original of a record that has been microfilmed pursuant to this chapter and rules adopted under it may be destroyed before the expiration of its retention period on a records retention schedule issued by the commission.

(b) A list of the originals of microfilmed records destroyed shall be filed with the records management officer.

(c) The microfilm record must be retained until the expiration of the retention period for the original record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 18, eff. September 1, 2019.

Sec. 204.009. MICROFILM OF PERMANENT RECORDS TO BE SUPPLIED. (a) A local government or elected county officer, at the request of the director and librarian, shall supply to the commission a copy of the microfilm of any permanent record to which access is not restricted by law.

(b) The commission shall reimburse the local government or elected county officer for the cost of the copy. If the film duplication is performed by the local government or elected county officer, the cost must be the same as that paid by state agencies to the Texas State Library for a similar microfilm copy. If the film duplication is done by a commercial microfilming service under contract with the local government or elected county officer, the cost of the copy may not exceed the cost paid by the local government or elected county officer for a copy under the contract.

(c) The director and librarian or an employee of the commission may not provide certified copies of a record on microfilm obtained under this section without the consent of the original local custodian of the record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.010. COMMERCIAL MICROFILM STORAGE FACILITIES. (a)

The commission may establish a program for the certification of commercial microfilm storage facilities for the storage of the master microfilm negatives of local government records.

(b) If the commission establishes a certification program, the procedures of this subsection apply. On request by the commercial storage facility, the director and librarian or the representative of the director and librarian shall inspect the facility to determine if the facility meets the minimum standards established by the commission under Section 204.004 for the storage of the microfilm of local government records. If the commercial storage facility meets the minimum standards established by the commission, the name of the facility shall be added to a list of certified storage facilities to be prepared by the director and librarian and made available on request to a local government, elected county officer, or other interested party. The inspection and certification of commercial storage facilities shall be on a fee basis to be determined by the commission.

(c) The commission shall determine the period a certification made under this section is effective.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.011. EFFECTIVE AS ORIGINAL RECORD. (a) A microfilmed record created in compliance with this chapter and rules adopted under it, including microfilm validated by Section 204.003, is an original record and shall be accepted by any court or administrative agency of this state.

(b) If issued and certified by a local government recordkeeper, a copy on paper or film of a microfilmed record shall be accepted by a court or administrative agency of this state as a certified copy of an original record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

CHAPTER 205. ELECTRONIC STORAGE OF RECORDS

Sec. 205.001. DEFINITIONS. In this chapter:

(1) "Electronic storage" means the maintenance of local government record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar machine-

readable medium.

(2) "Local government record data" means the information that by law, regulation, rule of court, ordinance, or administrative procedure in a local government comprises a local government record as defined by Section 201.003.

(3) "Source document" means the local government record from which local government record data is obtained for electronic storage. The term does not include backup copies of the data in any media generated from electronic storage.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.002. AUTHORIZATION. Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of this chapter and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.003. STANDARDS AND PROCEDURES TO BE ADOPTED. (a) The commission shall adopt rules establishing standards and procedures for the electronic storage of any local government record data of permanent value and may adopt rules establishing standards and procedures for the electronic storage of any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission. The rules must be approved as required by Section 441.165, Government Code.

(b) With regard to the types of local government record data covered by Subsection (a), the rules may require or prescribe:

(1) standards and procedures for the generation of backup or preservation copies of the local government record data on paper, microfilm, electronic, or other approved media;

(2) standards and procedures for the recopying or duplication of the magnetic tape, optical disk, or similar machine-readable medium on which the local government record data are stored;

(3) standards and procedures for the physical storage and maintenance of magnetic tapes, optical disks, or similar machine-readable media;

(4) standards and procedures for providing access by

members of the public to electronically stored local government record data to which they are entitled under law; and

(5) other standards and procedures that the commission considers necessary to ensure the availability, readability, or integrity of the local government record data.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.004. RULES TO BE UPDATED. The director and librarian shall monitor standards and procedures relating to electronic storage developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of records and information management in order to recommend to the commission any needed amendments to rules.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.005. SUPREME COURT RULES. This chapter is not intended to conflict with Subchapter I, Chapter 51, Government Code, relating to the electronic filing of certain documents in district and county courts. The commission shall incorporate any rules adopted under that subchapter into its own.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.006. INDEX. An index to local government record data stored electronically must provide the same information that may be required by state law for an index to the source document, if applicable.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.008. DESTRUCTION OF SOURCE DOCUMENTS. (a) The source document, if any, for electronically stored local government record data covered by rules adopted under Section 205.003(a) may be destroyed or returned to the person who filed it for record.

(b) The magnetic tape, optical disk, or similar medium

containing the local government record data and the hardware and software necessary to provide access to it must be retained by the local government or be available to the local government until the expiration of the retention period for all source documents, subject to the rules adopted under this chapter.

(c) The source document, if any, for electronically stored local government record data not covered by rules adopted under Section 205.003(a) may be destroyed before the expiration of the retention period for the source document in a records retention schedule issued by the commission if the magnetic tape, optical disk, or similar medium and hardware and software necessary to provide access to local government record data on the media are retained for the retention period in the schedule. Conversely, the magnetic tape, optical disk, or similar medium may be erased, written over, or destroyed before the expiration of the retention period for a source document for local government record data not covered by rules adopted under Section 205.003(a), if the source document, if any, is retained until the expiration of its retention period or, if the source document has already been destroyed, paper or microfilm copies are generated from the magnetic tape, optical disk, or similar medium before destruction or erasure and retained until the expiration of the retention period for the source document.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 19, eff. September 1, 2019.

Sec. 205.009. DENIAL OF ACCESS PROHIBITED. A person under contract or agreement with a local government or elected county officer to create, file, or store local government record data electronically or to provide services, equipment, or the means for the creation, filing, or storage, may not, under any circumstances, refuse to provide local government record data to the local government in a timely manner in a format accessible and useable by the local government.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.010. SECURITY BREACH NOTIFICATION BY LOCAL GOVERNMENT. (a) In this section:

(1) "Breach of system security" has the meaning assigned by Section 521.053, Business & Commerce Code.

(2) "Sensitive personal information" has the meaning assigned by Section 521.002, Business & Commerce Code.

(b) A local government that owns, licenses, or maintains computerized data that includes sensitive personal information shall comply, in the event of a breach of system security, with the notification requirements of Section 521.053, Business & Commerce Code, to the same extent as a person who conducts business in this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 419 (H.B. 2004), Sec. 6, eff. September 1, 2009.

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 211. MUNICIPAL ZONING AUTHORITY

SUBCHAPTER A. GENERAL ZONING REGULATIONS

Sec. 211.001. PURPOSE. The powers granted under this subchapter are for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Text of section as added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 1

For text of section as added by Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 1, see other Sec. 211.0011.

Sec. 211.0011. ZONING REGULATION OF MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USE AND DEVELOPMENT. (a) In this section, "mixed-use residential" and "multifamily residential" have the meanings assigned by Section 218.001.

(b) The authority under this chapter related to zoning

regulations and the determination of zoning district boundaries in connection with mixed-use residential use and development and multifamily residential use and development is subject to Chapter 218.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 1, eff. September 1, 2025.

Text of section as added by Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 1

For text of section as added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 1, see other Sec. 211.0011.

Sec. 211.0011. DEFINITION. In this subchapter, "proposed comprehensive zoning change" means a municipal proposal to:

(1) change an existing zoning regulation that:

(A) will have the effect of allowing more residential development than the previous regulation; and

(B) will apply uniformly to each parcel in one or more zoning districts;

(2) adopt a new zoning code or zoning map that will apply to the entire municipality; or

(3) adopt a zoning overlay district that:

(A) will have the effect of allowing more residential development than allowed without the overlay; and

(B) will include an area along a major roadway, highway, or transit corridor.

Added by Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 1, eff. September 1, 2025.

Sec. 211.002. ADOPTION OF REGULATION OR BOUNDARY INCLUDES AMENDMENT OR OTHER CHANGE. A reference in this subchapter to the adoption of a zoning regulation or a zoning district boundary includes the amendment, repeal, or other change of a regulation or boundary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 211.003. ZONING REGULATIONS GENERALLY. (a) The governing body of a municipality may regulate:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.

(b) In the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures.

(c) The governing body of a home-rule municipality may also regulate the bulk of buildings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 731, Sec. 2, eff. Sept. 1, 2003.

Sec. 211.0035. ZONING REGULATIONS AND DISTRICT BOUNDARIES APPLICABLE TO PAWNSHOPS. (a) In this section, "pawnshop" has the meaning assigned by Section 371.003, Finance Code.

(b) For the purposes of zoning regulation and determination of zoning district boundaries, the governing body of a municipality shall designate pawnshops that have been licensed to transact business by the Consumer Credit Commissioner under Chapter 371, Finance Code, as a permitted use in one or more zoning classifications.

(c) The governing body of a municipality may not impose a specific use permit requirement or any requirement similar in effect to a specific use permit requirement on a pawnshop that has been licensed to transact business by the Consumer Credit Commissioner under Chapter 371, Finance Code.

Added by Acts 1991, 72nd Leg., ch. 687, Sec. 18, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.81, eff. Sept. 1, 1999.

Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN. (a) Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets;

(2) secure safety from fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the overcrowding of land;

(6) avoid undue concentration of population; or

(7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

(b) Repealed by Acts 1997, 75th Leg., ch. 459, Sec. 2, eff. Sept. 1, 1997.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 458, Sec. 1, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 459, Sec. 2, eff. Sept. 1, 1997.

Sec. 211.005. DISTRICTS. (a) The governing body of a municipality may divide the municipality into districts of a number, shape, and size the governing body considers best for carrying out this subchapter. Within each district, the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) Zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be:

(1) published in an official newspaper or a newspaper of general circulation in the municipality; and

(2) if the municipality maintains an Internet website, published on the municipality's Internet website.

(a-1) In addition to any notice required by this section or Section 211.007, the governing body of a municipality or a zoning commission, as applicable, shall provide written notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary under which a current conforming use of a property is a nonconforming use if the regulation or boundary is adopted or changed. The notice must:

(1) be mailed by United States mail or delivered electronically to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date;

(2) contain the time and place of the hearing; and

(3) include the following text in bold 14-point type or larger:

"THE [MUNICIPALITY NAME] IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE. PLEASE READ THIS NOTICE CAREFULLY."

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

(d) Repealed by Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 7, eff. September 1, 2025.

(f) Repealed by Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 7, eff. September 1, 2025.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 52 (S.B. 929), Sec. 1, eff. May 19, 2023.

Acts 2025, 89th Leg., R.S., Ch. 460 (H.B. 4506), Sec. 1, eff. June 20, 2025.

Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 2, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 4, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 7, eff. September 1, 2025.

Sec. 211.0061. PROTEST PROCEDURES FOR CERTAIN PROPOSED CHANGES. (a) This section applies only to a proposed change to a zoning regulation or district boundary that is not a proposed comprehensive zoning change.

(b) A protest of a proposed change to a zoning regulation or district boundary must be written and signed by the owners of:

(1) at least 20 percent of the area of the lots or land covered by the proposed change;

(2) except as provided by Subdivision (3), at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area; or

(3) at least 60 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area if the proposed change has the

effect of allowing more residential development than the existing zoning regulation or district boundary and does not have the effect of allowing additional commercial or industrial uses unless the additional use is limited to the first floor of any residential development and does not exceed 35 percent of the overall development.

(c) In computing the percentage of land area under Subsection (b):

(1) the area of streets and alleys shall be included; and

(2) the land area is not calculated individually for each tract of land subject to a proposed change in a zoning regulation or district boundary but in the aggregate for all tracts of land subject to the change.

(d) If a proposed change to a regulation or district boundary is protested in accordance with Subsection (b), the proposed change must receive, in order to take effect, the affirmative vote of at least:

(1) three-fourths of all members of the governing body for a protest described by Subsection (b)(1) or (2); or

(2) a majority of all members of the governing body for a protest described by Subsection (b)(3).

Added by Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 3, eff. September 1, 2025.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 4, eff. September 1, 2025.

Sec. 211.0063. NOTICE FOR PROPOSED COMPREHENSIVE ZONING CHANGES. The notices described by Section 211.006(a) or 211.007(d), as applicable, and Section 211.006(a-1) are the only notices required for a proposed comprehensive zoning change.

Added by Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 5, eff. September 1, 2025.

Sec. 211.0065. PRESUMPTION OF VALIDITY FOR CERTAIN CHANGES TO ZONING REGULATIONS OR DISTRICT BOUNDARIES. A change to a zoning regulation or district boundary that has the effect of allowing more

residential development than the previous regulation is conclusively presumed valid and to have occurred in accordance with all applicable statutes and ordinances if an action to annul or invalidate the change has not been filed before the 60th day after the effective date of the change.

Added by Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 5, eff. September 1, 2025.

Sec. 211.007. ZONING COMMISSION. (a) To exercise the powers authorized by this subchapter, the governing body of a home-rule municipality shall, and the governing body of a general-law municipality may, appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. If the municipality has a municipal planning commission at the time of implementation of this subchapter, the governing body may appoint that commission to serve as the zoning commission.

(b) The zoning commission shall make a preliminary report and hold at least one public hearing on that report before submitting a final report to the governing body. The governing body may not hold a public hearing until it receives the final report of the zoning commission unless the governing body by ordinance provides that a public hearing is to be held, after the notice required by Section 211.006(a), jointly with a public hearing required to be held by the zoning commission. In either case, the governing body may not take action on the matter until it receives the final report of the zoning commission.

(c) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail or by electronic delivery. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given

in the manner provided by Section 211.006(a).

(c-1) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in classification is proposed is located. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail or by electronic delivery.

(c-2) Subsection (c-1) does not apply to a municipality the majority of which is located in a county with a population of 100,000 or less, except that such a municipality must give notice under Subsection (c-1) to a school district that has territory in the municipality and requests the notice. For purposes of this subsection, if a school district makes a request for notice under Subsection (c-1), the municipality must give notice of each public hearing held following the request unless the school district requests that no further notices under Subsection (c-1) be given to the school district.

(d) The governing body of a home-rule municipality may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of a public hearing held jointly by the governing body and the zoning commission. If notice requirements are prescribed under this subsection, the notice requirements prescribed by Subsections (b) and (c) and by Section 211.006(a) do not apply.

(e) If a general-law municipality exercises zoning authority without the appointment of a zoning commission, any reference in a law to a municipal zoning commission or planning commission means the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 640 (H.B. 674), Sec. 1, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 401 (H.B. 1381), Sec. 1, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 460 (H.B. 4506), Sec. 2, eff. June 20, 2025.

Sec. 211.0073. NOTICE SIGN REQUIREMENT FOR CERTAIN ZONING CHANGES IN HOME-RULE MUNICIPALITIES. (a) Not later than the 10th day before the date the zoning commission of a home-rule municipality holds a hearing on a proposed change in zoning classification that does not apply to the whole municipality and until the date of a final determination on the proposed change by the governing body of the municipality, the zoning commission shall post a notice sign in accordance with this section on:

(1) the property affected by the change; or

(2) a public right-of-way for a change initiated by the municipality that affects multiple properties.

(b) The notice sign must be at least 24 inches long by 48 inches wide.

(c) The zoning commission may elect to provide, maintain, and pay for a notice sign under this section or require an applicant for a change in zoning classification to provide, maintain, and pay for the sign.

(d) Notice requirements prescribed under this section are in addition to notice required by Section 211.007.

Added by Acts 2025, 89th Leg., R.S., Ch. 909 (H.B. 24), Sec. 6, eff. September 1, 2025.

Sec. 211.0075. COMPLIANCE WITH OPEN MEETINGS LAW. A board or commission established by an ordinance or resolution adopted by the governing body of a municipality to assist the governing body in developing an initial comprehensive zoning plan or initial zoning regulations for the municipality, or a committee of the board or commission that includes one or more members of the board or commission, is subject to Chapter 551, Government Code, regardless of whether the board, commission, or committee has rulemaking or quasi-judicial powers or functions only in an advisory capacity.

Added by Acts 1993, 73rd Leg., ch. 381, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(82), eff. Sept. 1, 1995.

Sec. 211.008. BOARD OF ADJUSTMENT. (a) The governing body of a municipality may provide for the appointment of a board of

adjustment. In the regulations adopted under this subchapter, the governing body may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

(b) A board of adjustment must consist of at least five members to be appointed for terms of two years. The governing body must provide the procedure for appointment. The governing body may authorize each member of the governing body, including the mayor, to appoint one member to the board. The appointing authority may remove a board member for cause, as found by the appointing authority, on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The governing body, by charter or ordinance, may provide for the appointment of alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(d) Each case before the board of adjustment must be heard by at least 75 percent of the members.

(e) The board by majority vote shall adopt rules in accordance with any ordinance adopted under this subchapter and with the approval of the governing body. Meetings of the board are held at the call of the presiding officer and at other times as determined by the board. The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(f) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

(g) The governing body of a Type A general-law municipality by ordinance may grant the members of the governing body the authority to act as a board of adjustment under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 126, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 363, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 820 (H.B. 2497), Sec. 1, eff. September 1, 2019.

Sec. 211.009. AUTHORITY OF BOARD. (a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;

(3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done; and

(4) hear and decide other matters authorized by an ordinance adopted under this subchapter.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(b-1) In exercising its authority under Subsection (a)(3), the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

(1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;

(2) compliance would result in a loss to the lot on which

the structure is located of at least 25 percent of the area on which development may physically occur;

(3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;

(4) compliance would result in the unreasonable encroachment on an adjacent property or easement; or

(5) the municipality considers the structure to be a nonconforming structure.

(c) The concurring vote of 75 percent of the members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or

(3) authorize a variation from the terms of a zoning ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 126, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, Sec. 2, eff. Aug. 28, 1995.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 318 (H.B. 1475), Sec. 1, eff. September 1, 2021.

Sec. 211.010. APPEAL TO BOARD. (a) Except as provided by Subsection (e), any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is not related to a specific application, address, or project:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the municipality affected by the decision.

(a-1) Except as provided by Subsection (e), any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is related to a specific application, address, or project:

(1) a person who:

(A) filed the application that is the subject of the decision;

(B) is the owner or representative of the owner of the property that is the subject of the decision; or

(C) is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or

(2) any officer, department, board, or bureau of the municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed not later than the 20th day after the date the decision is made. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed.

(e) A member of the governing body of the municipality who serves on the board of adjustment under Section 211.008(g) may not bring an appeal under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 363, Sec. 2, eff. Sept. 1, 1997. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 820 (H.B. 2497), Sec. 2, eff. September 1, 2019.

Sec. 211.011. JUDICIAL REVIEW OF BOARD DECISION. (a) Any of

the following persons may present to a district court, county court, or county court at law a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

(1) a person aggrieved by a decision of the board;

(2) a taxpayer; or

(3) an officer, department, board, or bureau of the municipality.

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time by which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

(g) The court may not apply a different standard of review to a decision of a board of adjustment that is composed of members of the governing body of the municipality under Section 211.008(g) than is applied to a decision of a board of adjustment that does not contain

members of the governing body of a municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 363, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 646, Sec. 1, eff. Aug. 30, 1999.

Sec. 211.012. ENFORCEMENT; PENALTY; REMEDIES. (a) The governing body of a municipality may adopt ordinances to enforce this subchapter or any ordinance or regulation adopted under this subchapter.

(b) A person commits an offense if the person violates this subchapter or an ordinance or regulation adopted under this subchapter. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the governing body. The governing body may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter or an ordinance or regulation adopted under this subchapter, the appropriate municipal authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 211.013. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local ordinance or regulation, the regulation adopted under this subchapter

controls. If the other statute or local ordinance or regulation imposes higher standards, that statute, ordinance, or regulation controls.

(b) This subchapter does not authorize the governing body of a municipality to require the removal or destruction of property that exists at the time the governing body implements this subchapter and that is actually and necessarily used in a public service business.

(c) This subchapter does not apply to a building, other structure, or land under the control, administration, or jurisdiction of a state or federal agency.

(d) This subchapter applies to a privately owned building or other structure and privately owned land when leased to a state agency.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 476, Sec. 1, eff. June 18, 1999.

Sec. 211.014. PANEL OF BOARD OF ADJUSTMENT. (a) This section applies only to a municipality with a population of 500,000 or more.

(b) A board of adjustment shall consist of one or more panels of at least five members each to be appointed for terms of two years. If more than one panel of the board is appointed, the board consists of the regular members of all of the panels. The board may adopt rules for the assignment of appeals to a panel.

(c) If the board consists of more than one panel, only one panel may hear, handle, or render a decision in a particular case. A decision of a panel of the board on a case constitutes the decision of the board.

(d) Meetings of a panel of the board are held at the call of the presiding officer of the panel and at other times as determined by the panel or the board.

(e) A panel of a board of adjustment:

(1) has the powers and duties that a board of adjustment has under Sections 211.008, 211.009, 211.010, and 211.011; and

(2) is to be treated as a board of adjustment for purposes of the requirement imposed by Section 211.008(d).

Added by Acts 1993, 73rd Leg., ch. 126, Sec. 3, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 12, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 669, Sec. 73, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 24 (S.B. 177), Sec. 1, eff. May 9, 2005.

Sec. 211.015. ZONING REFERENDUM IN HOME-RULE MUNICIPALITY. (a) Notwithstanding other requirements of this subchapter, the voters of a home-rule municipality may repeal the municipality's zoning regulations adopted under this subchapter by either:

(1) a charter election conducted under law; or

(2) on the initial adoption of zoning regulations by a municipality, the use of any referendum process that is authorized under the charter of the municipality for public protest of the adoption of an ordinance.

(b) Notwithstanding any procedural or other requirements of this chapter to the contrary, the governing body of a home-rule municipality may on its own motion submit the repeal of the municipality's zoning regulations, as adopted under this chapter, in their entirety to the electors by use of any process that is authorized under the charter of the municipality for a popular vote on the rejection or repeal of ordinances in general.

(c) The provisions of this chapter shall not be construed to prohibit the adoption or application of any charter provision of a home-rule municipality that requires a waiting period prior to the adoption of zoning regulations or the submission of the initial adoption of zoning regulations to a binding referendum election, or both, provided that all procedural requirements of this chapter for the adoption of the zoning regulation are otherwise complied with. This subsection does not apply to the adoption of airport zoning regulations under Chapter 241.

(d) Notwithstanding any charter provision to the contrary, a governing body of a municipality may adopt a zoning ordinance and condition its taking effect upon the ordinance receiving the approval of the electors at an election held for that purpose.

(e) The provisions of this section may only be utilized for the repeal of a municipality's zoning regulations in their entirety or for determinations of whether a municipality should initially adopt zoning regulations, except the governing body of a municipality may amend, modify, or repeal a zoning ordinance adopted, approved, or ratified at an election conducted pursuant to this section.

(f) The provisions of this section shall not authorize the repeal of:

(1) an ordinance approving land-use regulations adopted under the provisions of this chapter by a board of directors of a reinvestment zone under the authority of Section 311.010(c), Tax Code; or

(2) an ordinance approving airport zoning regulations adopted under Chapter 241.

Added by Acts 1993, 73rd Leg., ch. 126, Sec. 4, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 190 (S.B. 1360), Sec. 1, eff. May 23, 2007.

Sec. 211.016. ZONING REGULATION AFFECTING APPEARANCE OF BUILDINGS OR OPEN SPACE. (a) This section applies only to a zoning regulation that affects:

(1) the exterior appearance of a single-family house, including the type and amount of building materials; or

(2) the landscaping of a single-family residential lot, including the type and amount of plants or landscaping materials.

(b) A zoning regulation adopted after the approval of a residential subdivision plat does not apply to that subdivision until the second anniversary of the later of:

(1) the date the plat was approved; or

(2) the date the municipality accepts the subdivision improvements offered for public dedication.

(c) This section does not prevent a municipality from adopting or enforcing applicable building codes or prohibiting the use of building materials that have been proven to be inherently dangerous.

Added by Acts 2003, 78th Leg., ch. 524, Sec. 1, eff. Sept. 1, 2003.

Sec. 211.0165. DESIGNATION OF HISTORIC LANDMARK OR DISTRICT. (a) Except as provided by Subsection (b), a municipality that has established a process for designating places or areas of historical, cultural, or architectural importance and significance through the adoption of zoning regulations or zoning district boundaries may not designate a property as a local historic landmark or include a

property within the boundaries of a local historic district unless:

(1) the owner of the property consents to the designation or inclusion; or

(2) if the owner does not consent, the designation or inclusion of the owner's property is approved by a three-fourths vote of:

(A) the governing body of the municipality; and

(B) the zoning, planning, or historical commission of the municipality, if any.

(a-1) If a municipality has more than one commission described by Subsection (a)(2)(B), the municipality shall designate one of those commissions as the entity with exclusive authority to approve the designations of properties as local historic landmarks and the inclusion of properties in a local historic district under that paragraph.

(b) If the property is owned by an organization that qualifies as a religious organization under Section 11.20, Tax Code, the municipality may designate the property as a local historic landmark or include the property in a local historic district only if the organization consents to the designation or inclusion.

(c) The municipality must provide the property owner a statement that describes the impact that a historic designation or inclusion in a local historic district of the owner's property may have on the owner and the owner's property. The municipality must provide the statement to the owner not later than the 15th day before the date of the initial hearing on the historic designation or inclusion in a local historic district of the property of:

(1) the zoning, planning, or historical commission, if any; or

(2) the governing body of the municipality.

(d) The historic designation impact statement must include lists of the:

(1) regulations that may be applied to any structure on the property after the designation;

(2) procedures for the designation;

(3) tax benefits that may be applied to the property after the designation; and

(4) rehabilitation or repair programs that the municipality offers for a property designated as historic.

(e) The municipality must allow an owner to withdraw consent at

any time during the designation process.

Added by Acts 2019, 86th Leg., R.S., Ch. 231 (H.B. 2496), Sec. 1, eff. May 25, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 405 (S.B. 1585), Sec. 1, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 405 (S.B. 1585), Sec. 2, eff. September 1, 2021.

Sec. 211.0166. EXCLUSION FROM CERTAIN CONSERVATION DISTRICTS. (a) In this section, "conservation district" means a local preservation district authorized by ordinance by a municipality described by Subsection (b) to preserve, maintain, and protect the physical elements of development and the community character and heritage of neighborhoods having distinctive characteristics and patterns of development.

(b) This subsection applies only to a property located in a municipality with a population of two million or more. Notwithstanding any other law, this subsection applies regardless of whether the municipality has established a process for designating places or areas of historical, cultural, or architectural importance and significance through the adoption of zoning regulations or zoning district boundaries. The owner of a property included within the boundaries of a conservation district authorized by ordinance may elect to exclude the property from the district by filing in the real property records for the county in which the property is located an acknowledged statement:

(1) describing the property by reference to a map or plat of the subdivision; and

(2) stating that the owner elects to have the property excluded from the district.

(c) Subsection (b) does not apply to:

(1) the designation of a property as a local historic landmark described by Section 211.0165(a); or

(2) the inclusion of a property within the boundaries of a local historic district described by Section 211.0165(a).

(d) A statement filed under Subsection (b) must be filed before the first anniversary of the date of the inclusion in a conservation

district. The exclusion of a property takes effect on the filing of the statement by the owner of the property.

Added by Acts 2023, 88th Leg., R.S., Ch. 545 (H.B. 4057), Sec. 1, eff. June 10, 2023.

Sec. 211.017. CONTINUATION OF LAND USE IN NEWLY INCORPORATED AREAS. (a) A municipality incorporated after September 1, 2003, may not prohibit a person from:

(1) continuing to use land in the area in the manner in which the land was being used on the date of incorporation if the land use was legal at that time; or

(2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the incorporation if:

(A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and

(B) a completed application for the initial authorization was filed with the governmental entity before the date of incorporation.

(b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

(c) This section does not prohibit a municipality from imposing:

(1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;

(2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;

(3) a regulation relating to preventing imminent destruction of property or injury to persons;

(4) a regulation relating to public nuisances;

(5) a regulation relating to flood control;

(6) a regulation relating to the storage and use of hazardous substances;

(7) a regulation relating to the sale and use of fireworks;

or

(8) a regulation relating to the discharge of firearms.

(d) A municipal ordinance or rule in conflict with this section is void.

Added by Acts 2003, 78th Leg., ch. 279, Sec. 1, eff. Sept. 1, 2003. Renumbered from Local Government Code, Section 211.016 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(66), eff. September 1, 2005.

Sec. 211.018. CONTINUATION OF LAND USE REGARDING MANUFACTURED HOME COMMUNITIES. (a) In this section, "manufactured home," "manufactured home community," and "manufactured home lot" have the meanings assigned by Section 94.001, Property Code.

(b) The governing body of a municipality may not require a change in the nonconforming use of any manufactured home lot within the boundaries of a manufactured home community if:

(1) the nonconforming use of the land constituting the manufactured home community is authorized by law; and

(2) at least 50 percent of the manufactured home lots in the manufactured home community are physically occupied by a manufactured home used as a residence.

(c) For purposes of Subsection (b), requiring a change in the nonconforming use includes:

(1) requiring the number of manufactured home lots designated as a nonconforming use to be decreased; and

(2) declaring that the nonconforming use of the manufactured home lots has been abandoned based on a period of continuous abandonment of use as a manufactured home lot of any lot for less than 12 months.

(d) A manufactured home owner may install a new or used manufactured home, regardless of the size, or any appurtenance on a manufactured home lot located in a manufactured home community for which a nonconforming use is authorized by law, provided that the manufactured home or appurtenance and the installation of the manufactured home or appurtenance comply with:

(1) nonconforming land use standards, including standards relating to separation and setback distances and lot size, applicable on the date the nonconforming use of the land constituting the

manufactured home community was authorized by law; and

(2) all applicable state and federal law and standards in effect on the date of the installation of the manufactured home or appurtenance.

(e) A municipality that prohibits the construction of new single-family residences or the construction of additions to existing single-family residences on a site located in a designated floodplain may, notwithstanding Subsection (b), (c), or (d), prohibit the installation of a manufactured home in a manufactured home community on a manufactured home lot that is located in an equivalently designated floodplain.

Added by Acts 2017, 85th Leg., R.S., Ch. 741 (S.B. 1248), Sec. 1, eff. September 1, 2017.

Sec. 211.019. NONCONFORMING LAND USE. (a) In this section, "market value" means the price the sale of the property would bring in an arms-length transaction when offered for sale by one who wishes, but is not obliged, to sell and when bought by one who is under no necessity of buying it.

(b) A person using a property in a manner considered to be a nonconforming use as a result of the adoption of or change to a zoning regulation or boundary may continue to use the property in the same manner unless required by a municipality to stop the nonconforming use of the property.

(c) A requirement imposed by a municipality to stop a nonconforming use of a property under this section includes:

(1) an official action by the governing body of the municipality or a board, commission, department, or official of the municipality; or

(2) a determination by the municipality that a nonconforming use has an adverse effect or other necessary determination that a municipality must make before imposing a requirement to stop a nonconforming use under applicable law.

(d) If a municipality requires a property owner or lessee to stop the nonconforming use of a property as described by Subsection (b), the owner or lessee of the property is entitled to:

(1) payment from the municipality in an amount equal to the sum of:

(A) the costs incurred by the owner or lessee of the property that are directly attributable to ceasing the nonconforming use of the property, including expenses related to demolition, relocation, termination of a lease, or discharge of a mortgage; and

(B) an amount equal to the greater of, as determined by the municipality, the diminution in the market value of the property, computed by subtracting the current market value of the property after the imposition of a requirement to stop the nonconforming use of the property from:

(i) the market value of the property on the day before the date the notice was given under Section 211.006(a-1); or

(ii) the market value of the property on the day before a person submits an application or request to the municipality to require or the municipality otherwise requires a person to stop using the property in a manner that is a nonconforming use as described by Subsection (b); or

(2) continued nonconforming use of the property until the owner or lessee recovers the amount determined under Subdivision (1) through the owner or lessee's continued business activities according to generally accepted accounting principles.

(e) Not later than the 10th day after the date a municipality imposes a requirement to stop a nonconforming use of a property under this section, the municipality shall give written notice to each owner or lessee of the property, as indicated by the most recently approved municipal tax roll, who is required to stop a nonconforming use of the property of the requirement and of the remedies which an owner or lessee of the property is entitled to under Subsection (d).

(f) The owner or lessee of a property that is subject to a requirement to stop a nonconforming use of the property under this section shall not later than the 30th day after the date the municipality gives the notice required by Subsection (e) respond in writing to the municipality indicating the remedy under Subsection (d) chosen by the owner or lessee. In the event of a conflict in the choice of remedy by the owner and a lessee of the property, the owner's choice of remedy shall control. In the event of a conflict in the choice of remedy by the owners of a property that has more than one owner, the choice of remedy made by an owner or owners holding the greater ownership interest in the property shall control. If the municipality does not receive timely notice from an owner or lessee, the municipality may choose the remedy provided under this

section.

(g) A person receiving a payment under Subsection (d)(1) must stop the nonconforming use not later than the 10th day after the date of the payment.

(h) A person who continues the nonconforming use under Subsection (d)(2) must stop the nonconforming use immediately on the recovery of the amount determined under Subsection (d)(1).

(i) If more than one person seeks a payment from the municipality under Subsection (d)(1), the municipality shall apportion the payment between each person based on the market value of the person's interest in the property. A person may appeal the apportionment in the manner provided by this section.

(j) A person entitled to a remedy under this section may appeal a determination under Subsection (d)(1) or (2) to the board of adjustment of the municipality not later than the 20th day after the date the determination is made. At the hearing before the board of adjustment, the municipality has the burden of proof to establish the correctness of its determination.

(k) A municipality or a person aggrieved by the final decision of the board of adjustment under Subsection (j) may seek judicial review of the decision by filing suit as provided by Section 211.011 not later than the 20th day after the date the final decision is made. The court shall review the decision in the manner provided by Section 211.011 except that:

(1) the municipality has the burden of proving by clear and convincing evidence that its determination was correct; and

(2) the court:

(A) in reviewing the municipality's decision may not use a deferential standard in the municipality's favor; and

(B) is not limited to determining whether a decision of the board meets the requirements of this chapter or other applicable law.

(l) A person seeking to continue a nonconforming use under Subsection (d)(2) who appeals the decision of the municipality or board of adjustment may continue to use the property in the same manner pending the appeal unless an official of the body that made the decision shows cause to stay the nonconforming use by certifying in writing to the board of adjustment or court with jurisdiction over the appeal facts supporting the official's opinion that continued nonconforming use of the property would cause imminent peril to life

or property. On a showing of cause the board of adjustment or court with jurisdiction over the appeal may, after notice to the official, grant a restraining order to stay continued nonconforming use of the property.

(m) If the board of adjustment or court with jurisdiction over an appeal determines that an owner or lessee is entitled to:

(1) a payment under this section in an amount different than the amount determined by the municipality under Subsection (d)(1), the board of adjustment or court shall order, as applicable:

(A) additional payment to the owner or lessee; or

(B) the owner or lessee to reimburse the municipality; or

(2) an amount of time to operate the nonconforming use that is different than the amount of time initially received under Subsection (d)(2), the board of adjustment or court shall order the municipality to allow an owner or lessee to continue the nonconforming use for additional or less time.

(n) An owner or lessee may waive the rights and remedies provided by this section by providing to the municipality a written waiver.

(o) This section does not apply to a nonconforming use that has been intentionally abandoned for at least six months.

(p) A municipality's immunity from suit and governmental immunity from liability are waived for purposes of an action brought by a property owner or lessee to enforce the rights and remedies under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 52 (S.B. 929), Sec. 2, eff. May 19, 2023.

Sec. 211.020. ELECTRONIC DELIVERY OF NOTICE. (a) A municipality may deliver notice electronically under this chapter only if the recipient elects to receive notice electronically under Subsection (b).

(b) A municipality that intends to deliver notice electronically under this chapter shall establish an online portal on the municipality's Internet website through which a notice recipient may:

(1) elect to receive notice electronically under this

chapter; and

(2) manage preferences for receiving notice electronically under this chapter.

(c) A municipality may deliver notice electronically by e-mail or text message.

(d) A municipality shall request that the recipient of a notice delivered electronically under this chapter acknowledge receipt of the notice. The municipality must deliver the notice as otherwise provided by this chapter if the recipient does not acknowledge receipt of the notice delivered electronically.

Added by Acts 2025, 89th Leg., R.S., Ch. 460 (H.B. 4506), Sec. 3, eff. June 20, 2025.

SUBCHAPTER B. ADDITIONAL ZONING REGULATIONS IN MUNICIPALITY WITH POPULATION OF MORE THAN 290,000

Sec. 211.021. ADDITIONAL ZONING REGULATIONS. (a) The governing body of a municipality with a population of more than 290,000 that has adopted a comprehensive zoning ordinance under Subchapter A may, by ordinance, divide the municipality into neighborhood zoning areas after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

(b) The mayor of the municipality, with the approval of the governing body, may appoint a neighborhood advisory zoning council for each of the neighborhood zoning areas. Each zoning council must be composed of five citizens who reside in the neighborhood zoning area. A zoning council member is appointed for a term of two years.

(c) Each neighborhood advisory zoning council shall provide the zoning commission with information, advice, and recommendations relating to each application filed with the zoning commission for zoning regulation changes that affect property within that neighborhood zoning area.

(d) On the filing of a zoning change application with the zoning commission, the zoning commission shall provide the appropriate neighborhood advisory zoning council with a copy of the application. The zoning council shall conduct a public hearing on

the application and must publish notice of the time and place of the hearing in an official newspaper or a newspaper of general circulation in the municipality before the 10th day before the date of the hearing.

(e) At or before the zoning commission's hearing on the zoning change application, the neighborhood advisory zoning council shall submit to the zoning commission any information, advice, and recommendations relating to that application that the zoning council considers proper. The zoning commission may not overrule a recommendation of the zoning council with respect to the disposition of the application unless at least three-fourths of the members of the zoning commission who are present at the meeting vote to overrule the recommendation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. REGULATION OF COTTAGE FOOD PRODUCTION OPERATIONS

Sec. 211.031. DEFINITIONS. In this subchapter, "cottage food production operation" and "home" have the meanings assigned by Section 437.001, Health and Safety Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. 970), Sec. 7, eff. September 1, 2013.

Sec. 211.032. CERTAIN ZONING REGULATIONS PROHIBITED. A municipal zoning ordinance may not prohibit the use of a home for cottage food production operations.

Added by Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. 970), Sec. 7, eff. September 1, 2013.

Sec. 211.033. ACTION FOR NUISANCE OR OTHER TORT. This subchapter does not affect the right of a person to bring a cause of action under other law against an individual for nuisance or another tort arising out of the individual's use of the individual's home for cottage food production operations.

Added by Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. 970), Sec. 7, eff.

September 1, 2013.

Subchapter D, consisting of Secs. 211.051 to 211.057, was added by Acts 2025, 89th Leg., R.S., Ch. 841 (S.B. 1567), Sec. 1.

For another Subchapter D, consisting of Secs. 211.051 to 211.058, added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1, see Sec. 211.051 et seq., post.

SUBCHAPTER D. RESIDENTIAL ZONING LIMITATIONS RELATED TO OCCUPANCY IN CERTAIN MUNICIPALITIES

Sec. 211.051. DEFINITIONS. In this subchapter:

(1) "Dwelling unit" means a house, apartment unit, or any unit in a multiunit residential structure. The term does not include a unit in a hotel, motel, or other establishment in which more than half of the units are intended to be used for transient accommodations.

(2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 2025, 89th Leg., R.S., Ch. 841 (S.B. 1567), Sec. 1, eff. September 1, 2025.

Sec. 211.052. APPLICABILITY. This subchapter applies only to a home-rule municipality with a population of less than 250,000:

(1) in which the campus of an institution of higher education with a student enrollment of more than 20,000 is located; or

(2) that is adjacent to the campus of an institution of higher education described by Subdivision (1).

Added by Acts 2025, 89th Leg., R.S., Ch. 841 (S.B. 1567), Sec. 1, eff. September 1, 2025.

Sec. 211.053. DWELLING UNIT OCCUPANCY REQUIREMENTS. (a) Except as provided by Subsection (b), a municipality may not adopt or enforce a zoning ordinance, rule, or other regulation that limits the number of people who may occupy a dwelling unit based on:

(1) age;

(2) familial status;
(3) occupation;
(4) relationship status; or
(5) whether the occupants are related to each other by a certain degree of affinity or consanguinity.

(b) A municipality may impose a limit on the number of occupants of a dwelling unit that is not more restrictive than:
(1) one occupant per sleeping room with a minimum floor area of 70 square feet; and
(2) one additional occupant for each additional 50 square feet of floor area in the same sleeping room.

Added by Acts 2025, 89th Leg., R.S., Ch. 841 (S.B. 1567), Sec. 1, eff. September 1, 2025.

Sec. 211.054. NO EFFECT ON OTHER ZONING AUTHORITY. This subchapter does not prohibit a municipality from imposing a limit on the number of people who may occupy a dwelling unit based on health and safety standards contained in:
(1) a building code as adopted under Subchapter G, Chapter 214;
(2) a fire code;
(3) standards adopted by the Department of State Health Services; or
(4) local, state, or federal affordable housing program guidelines.

Added by Acts 2025, 89th Leg., R.S., Ch. 841 (S.B. 1567), Sec. 1, eff. September 1, 2025.

Sec. 211.055. LEASE REVIEW PROHIBITED. A municipality may not require a real estate broker, agent, or other third party fiduciary to submit for review or provide access to a lease or related document to determine the number of unrelated occupants of a dwelling unit for the purpose of enforcing a dwelling unit occupancy requirement.

Added by Acts 2025, 89th Leg., R.S., Ch. 841 (S.B. 1567), Sec. 1, eff. September 1, 2025.

Sec. 211.056. NO EFFECT ON PROPERTY OWNERS' ASSOCIATIONS AND OTHER PRIVATE AGREEMENTS. This subchapter does not prohibit a property owner from enforcing rules or deed restrictions imposed by a property owners' association or by other private agreement.

Added by Acts 2025, 89th Leg., R.S., Ch. 841 (S.B. 1567), Sec. 1, eff. September 1, 2025.

Sec. 211.057. CIVIL ACTION. (a) A person who owns property in or a tenant who resides in a municipality who is adversely affected or aggrieved by the municipality's violation of this subchapter may bring an action against the municipality or an officer or employee of the municipality in the officer's or employee's official capacity for relief described by Subsection (c).

(b) A claimant must bring an action under this section in a county in which the real property that is the subject of the action is wholly or partly located.

(c) In an action brought under this section, a court may:

(1) enter a declaratory judgment under Chapter 37, Civil Practice and Remedies Code;

(2) issue a writ of mandamus compelling a defendant officer or employee to comply with this subchapter; and

(3) issue an injunction preventing the defendant from violating this subchapter.

(d) A court shall award reasonable attorney's fees and court costs incurred in bringing an action under this section to a prevailing claimant.

(e) The Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over an appeal or original proceeding arising from an action brought under this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 841 (S.B. 1567), Sec. 1, eff. September 1, 2025.

Subchapter D, consisting of Secs. 211.051 to 211.058, was added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1.

For another Subchapter D, consisting of Secs. 211.051 to 211.057, added by Acts 2025, 89th Leg., R.S., Ch. 841 (S.B. 1567), Sec. 1, see

Sec. 211.051 et seq., post.

SUBCHAPTER D. RESIDENTIAL ZONING LIMITATIONS IN CERTAIN MUNICIPALITIES

Sec. 211.051. DEFINITIONS. In this subchapter:

(1) "Housing organization" means a:

(A) trade or industry group organized under the laws of this state consisting of local members primarily engaged in the construction or management of housing units;

(B) nonprofit organization organized under the laws of this state that:

(i) provides or advocates for increased access or reduced barriers to housing; and

(ii) has filed written or oral comments with the legislature; or

(C) nonprofit organization organized under the laws of this state that is engaged in public policy research, education, and outreach that includes housing policy-related issues and advocacy.

(2) "Small lot" means a residential lot that is 4,000 square feet or less.

Added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1, eff. September 1, 2025.

Sec. 211.052. APPLICABILITY. (a) This subchapter applies only to:

(1) a municipality that:

(A) has a population of more than 150,000; and

(B) is wholly or partly located in a county with a population of more than 300,000; and

(2) a tract of land located in a municipality described by Subdivision (1) that:

(A) will be platted and located in an area zoned for single-family homes;

(B) is five acres or more; and

(C) has no recorded plat.

(b) This subchapter does not apply to an area located within:

(1) one mile of a campus of the perimeter of a law enforcement training center in a county that has a population of 2,600,000 or more;

(2) 3,000 feet of an airport or military base; or

(3) 15,000 feet of the boundary of a military base if the area is designated by a municipality or joint airport zoning board, as applicable, as a military airport overlay zone with a clear zone and accident potential zone designation, as described by the military base's air installation compatible use zone report.

Added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1, eff. September 1, 2025.

Sec. 211.053. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to affect requirements directly related to:

(1) the use and occupancy of residential units leased for a term of less than 30 days; or

(2) flooding, sewer facilities, or well water located on an individual residential lot and serving only that lot.

Added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1, eff. September 1, 2025.

Sec. 211.054. CERTAIN DWELLING UNIT LOT SIZE REQUIREMENTS PROHIBITED. A municipality may not adopt or enforce an ordinance, rule, or other measure that requires:

(1) a residential lot to be:

(A) larger than 3,000 square feet;

(B) wider than 30 feet; or

(C) deeper than 75 feet; or

(2) if regulating the density of dwelling units in a residential development, a ratio of dwelling units per acre that prevents a single-family home from being built on a residential lot that is at least 3,000 square feet.

Added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1, eff. September 1, 2025.

Sec. 211.055. SMALL LOTS. (a) Except as provided by this section, a municipality may not adopt or enforce an ordinance, rule, or other measure that requires a small lot to have:

(1) a building plane or other setback greater than:

(A) 15 feet from the front or 10 feet from the back of the property; or

(B) five feet from the side of the property;

(2) covered parking;

(3) more than one parking space per unit;

(4) off-site parking;

(5) more than 30 percent open space or permeable surface;

(6) fewer than three full stories not exceeding 10 feet in height measured from the interior floor to ceiling;

(7) a maximum building bulk;

(8) a wall articulation requirement; or

(9) any other zoning restriction that imposes restrictions inconsistent with this subsection, including restrictions through contiguous zoning districts or uses or from the creation of an overlapping zoning district.

(a-1) Notwithstanding Subsection (a)(1), a municipality may require with respect to a small lot a setback related to environmental features, erosion, or waterways, to the extent authorized by federal or other state law.

(b) A municipality may require with respect to a small lot:

(1) the sharing of a driveway with another lot;

(2) permitting fees equivalent to the permitting fees charged for the development of a lot the use of which is restricted to a single-family residence; or

(3) impact fees, to the extent authorized by Chapter 395.

(c) Notwithstanding Subsection (a)(5), a municipality may adopt or enforce an ordinance, rule, or other measure with respect to a small lot that:

(1) applies to land located in an aquifer recharge zone; and

(2) relates to the protection of an aquifer.

Added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1, eff. September 1, 2025.

Sec. 211.056. NO EFFECT ON OTHER ZONING AUTHORITY. Except as expressly provided by this subchapter, this subchapter does not prohibit a municipality from imposing restrictions that are

applicable to all similarly situated lots or subdivisions, including requiring all subdivisions or all small lots to fully mitigate stormwater runoff.

Added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1, eff. September 1, 2025.

Sec. 211.057. NO EFFECT ON HOMEOWNERS' ASSOCIATIONS AND OTHER PRIVATE AGREEMENTS. This subchapter does not prohibit property owners from enforcing rules or deed restrictions imposed by a homeowners' association or by other private agreement.

Added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1, eff. September 1, 2025.

Sec. 211.058. ACTION. (a) A person adversely affected or aggrieved by a municipality's violation of this subchapter or a housing organization may bring an action against the municipality or an officer or employee of the municipality in the officer's or employee's official capacity for relief described by Subsection (c).

(b) A claimant must bring an action under this section in a county in which the real property that is the subject of the action is wholly or partly located.

(c) In an action brought under this section, a court may:

(1) enter a declaratory judgment under Chapter 37, Civil Practice and Remedies Code;

(2) issue a writ of mandamus compelling a defendant officer or employee to comply with this subchapter; and

(3) issue an injunction preventing the defendant from violating this subchapter.

(d) A court shall award reasonable attorney's fees and court costs incurred in bringing an action under this section to a prevailing claimant.

(e) A claimant in an action brought under this section may elect in the claimant's petition to designate the Fifteenth Court of Appeals as the exclusive intermediate appellate court over an appeal or original proceeding arising from the action.

Added by Acts 2025, 89th Leg., R.S., Ch. 1127 (S.B. 15), Sec. 1, eff.

September 1, 2025.

CHAPTER 212. MUNICIPAL REGULATION OF SUBDIVISIONS AND PROPERTY DEVELOPMENT

SUBCHAPTER A. REGULATION OF SUBDIVISIONS

Sec. 212.001. DEFINITIONS. In this subchapter:

(1) "Extraterritorial jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42, except that for a municipality that has a population of 5,000 or more and is located in a county bordering the Rio Grande River, "extraterritorial jurisdiction" means the area outside the municipal limits but within five miles of those limits.

(2) "Plat" includes a preliminary plat, final plat, and replat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 1, eff. September 1, 2023.

Sec. 212.0015. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to restrict a municipality from establishing a submittal calendar to be used by an applicant to facilitate compliance with the approval process described by Sections 212.009, 212.0091, 212.0093, and 212.0095.

Added by Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 2, eff. September 1, 2023.

Sec. 212.002. RULES. After a public hearing on the matter, the governing body of a municipality may adopt rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.0021. SUBDIVISION REQUIREMENTS. The governing body of a municipality, by ordinance and after notice is published in a newspaper of general circulation in the municipality, may:

(1) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road; and

(2) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices.

Added by Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 3, eff. September 1, 2023.

Sec. 212.0025. CHAPTER-WIDE PROVISION RELATING TO REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION. The authority of a municipality under this chapter relating to the regulation of plats or subdivisions in the municipality's extraterritorial jurisdiction is subject to any applicable limitation prescribed by an agreement under Section 242.001.

Added by Acts 2003, 78th Leg., ch. 523, Sec. 6, eff. June 20, 2003.

Sec. 212.003. EXTENSION OF RULES TO EXTRATERRITORIAL JURISDICTION. (a) The governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of municipal ordinances adopted under Section 212.002 and other municipal ordinances relating to access to public roads or the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health. However, unless otherwise authorized by state law, in its extraterritorial jurisdiction a municipality shall not regulate:

(1) the use of any building or property for business, industrial, residential, or other purposes;

(2) the bulk, height, or number of buildings constructed on

a particular tract of land;

(3) the size of a building that can be constructed on a particular tract of land, including without limitation any restriction on the ratio of building floor space to the land square footage;

(4) the number of residential units that can be built per acre of land; or

(5) the size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract of land if:

(A) the facility meets the minimum standards established for water or wastewater facilities by state and federal regulatory entities; and

(B) the developed tract of land is:

(i) located in a county with a population of 2.8 million or more; and

(ii) served by:

(a) on-site septic systems constructed before September 1, 2001, that fail to provide adequate services; or

(b) on-site water wells constructed before September 1, 2001, that fail to provide an adequate supply of safe drinking water.

(b) A fine or criminal penalty prescribed by the ordinance does not apply to a violation in the extraterritorial jurisdiction.

(c) The municipality is entitled to appropriate injunctive relief in district court to enjoin a violation of municipal ordinances or codes applicable in the extraterritorial jurisdiction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 822, Sec. 6, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 68, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 731, Sec. 3, eff. Sept. 1, 2003.

Sec. 212.004. PLAT REQUIRED. (a) The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets,

alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.

(b) To be recorded, the plat must:

(1) describe the subdivision by metes and bounds;

(2) locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and

(3) state the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended by the owner of the tract to be dedicated to public use.

(c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

(d) The plat must be filed and recorded with the county clerk of the county in which the tract is located.

(e) The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

(f) A plat is considered filed on the date the applicant submits the plat, along with a completed plat application and the application fees and other requirements prescribed by or under this subchapter, to:

(1) the governing body of the municipality; or

(2) the municipal authority responsible for approving plats.

(g) The governing body of a municipality or the municipal authority responsible for approving plats may not require an analysis, study, document, agreement, or similar requirement to be included in or as part of an application for a plat, development permit, or subdivision of land that is not explicitly allowed by state law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 3.02, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 1046, Sec. 1, eff. Aug. 30, 1993.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 4, eff. September 1, 2023.

Sec. 212.0045. EXCEPTION TO PLAT REQUIREMENT: MUNICIPAL DETERMINATION. (a) To determine whether specific divisions of land are required to be platted, a municipality may define and classify the divisions. A municipality need not require platting for every division of land otherwise within the scope of this subchapter.
(b) In lieu of a plat contemplated by this subchapter, a municipality may require the filing of a development plat under Subchapter B if that subchapter applies to the municipality.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989.

Sec. 212.0046. EXCEPTION TO PLAT REQUIREMENT: CERTAIN PROPERTY ABUTTING AIRCRAFT RUNWAY. An owner of a tract of land is not required to prepare a plat if the land:
(1) is located wholly within a municipality with a population of 5,000 or less;
(2) is divided into parts larger than 2-1/2 acres; and
(3) abuts any part of an aircraft runway.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989.

Sec. 212.005. APPROVAL BY MUNICIPALITY REQUIRED. (a) The municipal authority responsible for approving plats must approve a plat or replat that is required to be prepared under this subchapter and that satisfies the requirements of this subchapter.
(b) This subchapter may not be construed to convey any authority to a municipality regarding the completeness of an application or the approval of a plat or replat that is not explicitly granted by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 1046, Sec. 2, eff. Aug. 30, 1993.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 5, eff. September 1, 2023.

Sec. 212.006. AUTHORITY RESPONSIBLE FOR APPROVAL GENERALLY. (a) The municipal authority responsible for approving plats under this subchapter is the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality. The governing body by ordinance may require the approval of the governing body in addition to that of the municipal planning commission.

(b) In a municipality with a population of more than 1.5 million, at least two members of the municipal planning commission, but not more than 25 percent of the membership of the commission, must be residents of the area outside the limits of the municipality and in which the municipality exercises its authority to approve subdivision plats.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989.

Sec. 212.0065. DELEGATION OF APPROVAL RESPONSIBILITY. (a) The governing body of a municipality or the municipal planning commission may delegate to one or more officers or employees of the municipality or of a utility owned or operated by the municipality the ability to approve, approve with conditions, or disapprove a plat.

(b) The designated person or persons may, for any reason, elect to present the plat for approval to the municipal authority responsible for approving plats.

(c) An applicant has the right to appeal to the governing body of the municipality or the municipal planning commission if the designated person disapproves a plat.

Added by Acts 1989, 71st Leg., ch. 345, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 92, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 566, Sec. 1, eff. June 2, 1997; Acts 1999, 76th Leg., ch. 1130, Sec. 2, eff. June 18, 1999; Acts 2001, 77th

Leg., ch. 402, Sec. 13, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 316 (H.B. 2281), Sec. 1, eff. June 15, 2007.
Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 6, eff. September 1, 2023.

Sec. 212.007. AUTHORITY RESPONSIBLE FOR APPROVAL: TRACT IN EXTRATERRITORIAL JURISDICTION OF MORE THAN ONE MUNICIPALITY. (a) For a tract located in the extraterritorial jurisdiction of more than one municipality, the authority responsible for approving a plat under this subchapter is the authority in the municipality with the largest population that under Section 212.006 has approval responsibility. The governing body of that municipality may enter into an agreement with any other affected municipality or with any other municipality having area that, if unincorporated, would be in the extraterritorial jurisdiction of the governing body's municipality delegating to the other municipality the responsibility for plat approval within specified parts of the affected area.
(b) Either party to an agreement under Subsection (a) may revoke the agreement after 20 years have elapsed after the date of the agreement unless the parties agree to a shorter period.
(c) A copy of the agreement shall be filed with the county clerk.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.008. APPLICATION FOR APPROVAL. A person desiring approval of a plat must apply to and file a copy of the plat with the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.0081. REQUIRED APPLICATION MATERIALS. (a) Each municipality to which this subchapter applies shall adopt and make available to the public a complete, written list of all documentation and other information that the municipality requires to be submitted

with a plat application. The required documentation and other information must be related to a requirement authorized under this subchapter.

(b) An application submitted to the municipal authority responsible for approving plats that contains all documents and other information on the list provided under Subsection (a) is considered complete.

(c) A municipality that operates an Internet website shall publish and continuously maintain the list described by Subsection (a) on the Internet website not later than the 30th day after the date the municipality adopts or amends the list.

(d) A municipality that does not operate an Internet website shall publish the list described by Subsection (a) on adoption of the list or an amendment to the list in:

(1) a newspaper of general circulation in the municipality; and

(2) a public place in the location in which the governing body of the municipality meets.

Added by Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 7, eff. September 1, 2023.

Sec. 212.0085. APPROVAL PROCEDURE: APPLICABILITY. The approval procedures under this subchapter apply to a municipality regardless of whether the municipality has entered into an interlocal agreement, including an interlocal agreement between a municipality and county under Section 242.001(d).

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 2, eff. September 1, 2019.

Sec. 212.009. APPROVAL PROCEDURE: INITIAL APPROVAL. (a) The municipal authority responsible for approving plats shall approve, approve with conditions, or disapprove a plat within 30 days after the date the plat is filed. A plat is approved by the municipal authority unless it is disapproved within that period and in accordance with Section 212.0091.

(b) If an ordinance requires that a plat be approved by the governing body of the municipality in addition to the planning

commission, the governing body shall approve, approve with conditions, or disapprove the plat within 30 days after the date the plat is approved by the planning commission or is approved by the inaction of the commission. A plat is approved by the governing body unless it is disapproved within that period and in accordance with Section 212.0091.

(b-1) Notwithstanding Subsection (a) or (b), if a groundwater availability certification is required under Section 212.0101, the 30-day period described by those subsections begins on the date the applicant submits the groundwater availability certification to the municipal authority responsible for approving plats or the governing body of the municipality, as applicable.

(b-2) Notwithstanding Subsection (a) or (b), the parties shall extend the 30-day period described by those subsections for one or more periods, each not to exceed 30 days if:

(1) both:

(A) the applicant requests the extension in writing to the municipal authority responsible for approving plats or the governing body of the municipality, as applicable; and

(B) the municipal authority or governing body, as applicable, approves the extension request; or

(2) Chapter 2007, Government Code, requires the municipality to perform a takings impact assessment in connection with the plan or plat.

(c) If a plat is approved, the municipal authority giving the approval shall endorse the plat with a certificate indicating the approval. The certificate must be signed by:

(1) the authority's presiding officer and attested by the authority's secretary; or

(2) a majority of the members of the authority.

(d) If the municipal authority responsible for approving plats fails to approve, approve with conditions, or disapprove a plat within the prescribed period, the authority on the applicant's request shall issue a certificate stating the date the plat was filed and that the authority failed to act on the plat within the period. The certificate is effective in place of the endorsement required by Subsection (c).

(e) The municipal authority responsible for approving plats shall maintain a record of each application made to the authority and the authority's action taken on it. On request of an owner of an

affected tract, the authority shall certify the reasons for the action taken on an application.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 3, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 4, eff. September 1, 2019.
Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 8, eff. September 1, 2023.

Sec. 212.0091. APPROVAL PROCEDURE: CONDITIONAL APPROVAL OR DISAPPROVAL REQUIREMENTS. (a) A municipal authority or governing body that conditionally approves or disapproves a plat under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.

(b) Each condition or reason specified in the written statement:

(1) must:

(A) be directly related to the requirements under this subchapter; and

(B) include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval, if applicable; and

(2) may not be arbitrary.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 5, eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 9, eff. September 1, 2023.

Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional approval or disapproval of a plat under Section 212.0091, the applicant may submit to the municipal authority or governing body that

conditionally approved or disapproved the plat a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The municipal authority or governing body may not establish a deadline for an applicant to submit the response.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 5, eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 10, eff. September 1, 2023.

Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL OF RESPONSE. (a) A municipal authority or governing body that receives a response under Section 212.0093 shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat not later than the 15th day after the date the response was submitted.

(b) A municipal authority or governing body that conditionally approves or disapproves a plat following the submission of a response under Section 212.0093:

(1) must comply with Section 212.0091; and

(2) may disapprove the plat only for a specific condition or reason provided to the applicant under Section 212.0091.

(c) A municipal authority or governing body that receives a response under Section 212.0093 shall approve a previously conditionally approved or disapproved plat if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.

(d) A previously conditionally approved or disapproved plat is approved if:

(1) the applicant filed a response that meets the requirements of Subsection (c); and

(2) the municipal authority or governing body that received the response does not disapprove the plat on or before the date required by Subsection (a) and in accordance with Section 212.0091.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 5, eff. September 1, 2019.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 10, eff. September 1, 2023.

Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL PROCESS. (a) Notwithstanding Sections 212.009, 212.0091, 212.0093, and 212.0095, an applicant may elect at any time to seek approval for a plat under an alternative approval process adopted by a municipality if the process allows for a shorter approval period than the approval process described by Sections 212.009, 212.0091, 212.0093, and 212.0095.

(b) An applicant that elects to seek approval under the alternative approval process described by Subsection (a) is not:

(1) required to satisfy the requirements of Sections 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action challenging a disapproval of a plat under this subchapter; and

(2) prejudiced in any manner in bringing the action described by Subdivision (1), including satisfying a requirement to exhaust any and all remedies.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 5, eff. September 1, 2019.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 10, eff. September 1, 2023.

Sec. 212.0097. APPROVAL PROCEDURE: WAIVER PROHIBITED. A municipal authority responsible for approving plats or the governing body of a municipality may not request or require an applicant to waive a deadline or other approval procedure under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 5, eff. September 1, 2019.

Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal action challenging a disapproval of a plat under this subchapter, the municipality has the burden of proving by clear and convincing evidence that the disapproval meets the requirements of this subchapter or any applicable case law. The court may not use a

deferential standard.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 5, eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 11, eff. September 1, 2023.

Sec. 212.010. STANDARDS FOR APPROVAL. (a) The municipal authority responsible for approving plats shall approve a plat if:

(1) it conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities;

(2) it conforms to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities;

(3) a bond required under Section 212.0106, if applicable, is filed with the municipality; and

(4) it conforms to any rules adopted under Section 212.002.

(b) However, the municipal authority responsible for approving plats may not approve a plat unless the plat and other documents have been prepared as required by Section 212.0105, if applicable.

(c) The municipal authority responsible for approving plats may not require the dedication of land within a subdivision for a future street or alley that is:

(1) not intended by the owner of the tract; and

(2) not included, funded, and approved in:

(A) a capital improvement plan adopted by the municipality; or

(B) a similar plan adopted by a county in which the municipality is located or the state.

(d) A municipal authority responsible for approving plats may not refuse to review a plat or to approve a plat for recordation for failure to identify a corridor, as defined by Section 201.619, Transportation Code, unless the corridor is part of an agreement between the Texas Department of Transportation and a county in which the municipality is located under that section.

(e) If a municipal authority responsible for approving plats fails or refuses to approve a plat that meets the requirements of this subchapter, the owner of the tract that is the subject of the plat may bring an action in a district court in a county in which the tract is located for a writ of mandamus to compel the municipal authority to approve the plat by issuing to the owner applicable approval documentation. The applicant shall recover reasonable attorney's fees and court costs in the action if the applicant prevails. The municipality may recover reasonable attorney's fees and court costs in the action if the municipality prevails and the court finds the action is frivolous.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1125 (H.B. 3699), Sec. 12, eff. September 1, 2023.

Sec. 212.0101. ADDITIONAL REQUIREMENTS: USE OF GROUNDWATER. (a) Except as provided by Subsection (a-1), a plat application for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land must have attached to it a statement that:

(1) is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state; and

(2) certifies that adequate groundwater is available for the subdivision.

(a-1) A municipal authority responsible for approving plats may waive the requirement prescribed by Subsection (a) that a plat application have attached to it a statement described by that subsection if:

(1) based on credible evidence of groundwater availability in the vicinity of the proposed subdivision, the municipal authority determines that sufficient groundwater is available and will continue to be available to the subdivided tract of land; and

(2) either:

(A) the entire tract proposed to be subdivided by the plat will be supplied with groundwater from the Gulf Coast Aquifer or the Carrizo-Wilcox Aquifer; or

(B) the proposed subdivision divides the tract into not more than 10 parts.

(a-2) A person subject to a waiver authorized by Subsection (a-1)(2)(B) regarding a subdivided tract of land must comply with the requirements of Subsection (a) if:

(1) the tract is subsequently divided in a manner that results in the original tract being subdivided into more than 10 parts; or

(2) the municipal authority determines that the proposed subdivision is part of a series of proposed subdivisions from an original tract that collectively includes more than 10 parts.

(b) The Texas Commission on Environmental Quality by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.

(c) The Texas Commission on Environmental Quality, in consultation with the Texas Water Development Board, by rule shall require a person who submits a plat under Subsection (a) to transmit to the Texas Water Development Board and any groundwater conservation district that includes in the district's boundaries any part of the subdivision information that would be useful in:

(1) performing groundwater conservation district activities;

(2) conducting regional water planning;

(3) maintaining the state's groundwater database; or

(4) conducting studies for the state related to groundwater.

Added by Acts 1999, 76th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 99, Sec. 2(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 515 (S.B. 662), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.29, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 980 (S.B. 2440), Sec. 1, eff. January 1, 2024.

Sec. 212.0105. WATER AND SEWER REQUIREMENTS IN CERTAIN

COUNTIES. (a) This section applies only to a person who:

(1) is the owner of a tract of land in a county in which a political subdivision that is eligible for and has applied for financial assistance through Subchapter K, Chapter 17, Water Code;

(2) divides the tract in a manner that creates any lots that are intended for residential purposes and are five acres or less; and

(3) is required under this subchapter to have a plat prepared for the subdivision.

(b) The owner of the tract:

(1) must:

(A) include on the plat or have attached to the plat a document containing a description of the water and sewer service facilities that will be constructed or installed to service the subdivision and a statement of the date by which the facilities will be fully operable; and

(B) have attached to the plat a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities described by the plat or on the document attached to the plat are in compliance with the model rules adopted under Section 16.343, Water Code; or

(2) must:

(A) include on the plat a statement that water and sewer service facilities are unnecessary for the subdivision; and

(B) have attached to the plat a document prepared by an engineer registered to practice in this state certifying that water and sewer service facilities are unnecessary for the subdivision under the model rules adopted under Section 16.343, Water Code.

(c) The governing body of the municipality may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the governing body finds the extension is reasonable and not contrary to the public interest. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1,

1989. Amended by Acts 1991, 72nd Leg., ch. 422, Sec. 7, eff. Sept. 1, 1991.
Amended by:
Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 13, eff. September 1, 2005.

Sec. 212.0106. BOND REQUIREMENTS AND OTHER FINANCIAL GUARANTEES IN CERTAIN COUNTIES. (a) This section applies only to a person described by Section 212.0105(a).

(b) If the governing body of a municipality in a county described by Section 212.0105(a)(1)(A) or (B) requires the owner of the tract to execute a bond, the owner must do so before subdividing the tract unless an alternative financial guarantee is provided under Subsection (c). The bond must:

(1) be payable to the presiding officer of the governing body or to the presiding officer's successors in office;

(2) be in an amount determined by the governing body to be adequate to ensure the proper construction or installation of the water and sewer service facilities to service the subdivision but not to exceed the estimated cost of the construction or installation of the facilities;

(3) be executed with sureties as may be approved by the governing body;

(4) be executed by a company authorized to do business as a surety in this state if the governing body requires a surety bond executed by a corporate surety; and

(5) be conditioned that the water and sewer service facilities will be constructed or installed:

(A) in compliance with the model rules adopted under Section 16.343, Water Code; and

(B) within the time stated on the plat or on the document attached to the plat for the subdivision or within any extension of that time.

(c) In lieu of the bond an owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee.

(d) If a letter of credit is used, it must:

(1) list as the sole beneficiary the presiding officer of the governing body; and

(2) be conditioned that the water and sewer service facilities will be constructed or installed:

(A) in compliance with the model rules adopted under Section 16.343, Water Code; and

(B) within the time stated on the plat or on the document attached to the plat for the subdivision or within any extension of that time.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989.

Sec. 212.011. EFFECT OF APPROVAL ON DEDICATION. (a) The approval of a plat is not considered an acceptance of any proposed dedication and does not impose on the municipality any duty regarding the maintenance or improvement of any dedicated parts until the appropriate municipal authorities make an actual appropriation of the dedicated parts by entry, use, or improvement.

(b) The disapproval of a plat is considered a refusal by the municipality of the offered dedication indicated on the plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.0115. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS. (a) For the purposes of this section, land is considered to be within the jurisdiction of a municipality if the land is located within the limits or in the extraterritorial jurisdiction of the municipality.

(b) On the approval of a plat by the municipal authority responsible for approving plats, the authority shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the authority.

(c) On the written request of an owner of land, a purchaser of real property under a contract for deed, executory contract, or other executory conveyance, an entity that provides utility service, or the governing body of the municipality, the municipal authority responsible for approving plats shall make the following determinations regarding the owner's land or the land in which the entity or governing body is interested that is located within the jurisdiction of the municipality:

(1) whether a plat is required under this subchapter for the land; and

(2) if a plat is required, whether it has been prepared and whether it has been reviewed and approved by the authority.

(d) The request made under Subsection (c) must identify the land that is the subject of the request.

(e) If the municipal authority responsible for approving plats determines under Subsection (c) that a plat is not required, the authority shall issue to the requesting party a written certification of that determination. If the authority determines that a plat is required and that the plat has been prepared and has been reviewed and approved by the authority, the authority shall issue to the requesting party a written certification of that determination.

(f) The municipal authority responsible for approving plats shall make its determination within 20 days after the date it receives the request under Subsection (c) and shall issue the certificate, if appropriate, within 10 days after the date the determination is made.

(g) If both the municipal planning commission and the governing body of the municipality have authority to approve plats, only one of those entities need make the determinations and issue the certificates required by this section.

(h) The municipal authority responsible for approving plats may adopt rules it considers necessary to administer its functions under this section.

(i) The governing body of a municipality may delegate, in writing, the ability to perform any of the responsibilities under this section to one or more persons. A binding decision of the person or persons under this subsection is appealable to the municipal authority responsible for approving plats.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.03, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 567, Sec. 1, eff. June 2, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 978 (H.B. 1823), Sec. 1, eff. September 1, 2005.

Sec. 212.012. CONNECTION OF UTILITIES. (a) Except as provided

by Subsection (c), (d), or (j), an entity described by Subsection (b) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115.

(b) The prohibition established by Subsection (a) applies only to:

(1) a municipality and officials of a municipality that provides water, sewer, electricity, gas, or other utility service;

(2) a municipally owned or municipally operated utility that provides any of those services;

(3) a public utility that provides any of those services;

(4) a water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides any of those services;

(5) a county that provides any of those services; and

(6) a special district or authority created by or under state law that provides any of those services.

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; or

(4) the land was removed from a municipality's extraterritorial jurisdiction under Subchapter D or E, Chapter 42, and the entity holds a certificate of convenience and necessity to serve the land.

(d) In a county to which Subchapter B or G, Chapter 232, applies, an entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service that is located in the extraterritorial jurisdiction of a

municipality regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115, if the municipal authority responsible for approving plats issues a certificate stating that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider by any means of conveyance, including a contract for deed or executory contract, before:

(i) September 1, 1995, in a county defined under Section 232.022(a)(1);

(ii) September 1, 1999, in a county defined under Section 232.022(a)(1) if, on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or

(iii) September 1, 2005, in a county defined under Section 232.022(a)(2);

(B) has not been subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Paragraph (A);

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:

(i) May 1, 2003, in a county defined under Section 232.022(a)(1); or

(ii) September 1, 2005, in a county defined under Section 232.022(a)(2); and

(D) has had adequate sewer services installed to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code;

(2) the subdivided land is a lot of record as defined by Section 232.021(6-a) that is located in a county defined by Section 232.022(a)(1) and has adequate sewer services installed that are fully operable to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code; or

(3) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:

(A) water service is available within 750 feet of the

subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(e) An entity described by Subsection (b) may provide utility service to land described by Subsection (d)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the entity a certificate described by Subsection (d).

(f) A person requesting service may obtain a certificate under Subsection (d)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the municipal authority responsible for approving plats documentation containing:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider before September 1, 1995, before September 1, 1999, or before September 1, 2005, as applicable under Subsection (d);

(2) for a certificate issued under Subsection (d)(1), a notarized affidavit by the person requesting service that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, in a county defined by Section 232.022(a)(1) or September 1, 2005, in a county defined by Section 232.022(a)(2), and the request for utility connection or service is to connect or serve a residence described by Subsection (d)(1)(C);

(3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Subsection (d); and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Subsection (b) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code.

(g) On request, the municipal authority responsible for approving plats shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy

of any document on which the municipal authority relied in determining the legality of providing service.

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) In this section:

(1) "Foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(2) "Subdivider" has the meaning assigned by Section 232.021.

(j) Except as provided by Subsection (k), this section does not prohibit a water or sewer utility from providing in a county defined by Section 232.022(a)(1) water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the municipality with jurisdiction over the project or the approval of plats within the project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code.

(k) A utility may not serve any subdivided land with water utility connection or service under Subsection (j) unless the entity receives a determination that adequate sewer services have been installed to service the lot or dwelling from the municipal authority responsible for approving plats, an entity described by Subsection (b), or the authorized agent responsible for the licensing or

permitting of on-site sewage facilities under Chapter 366, Health and Safety Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1062, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 18.34, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 404, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1239 (S.B. 2253), Sec. 1, eff. June 19, 2009.

Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 1, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 1144 (S.B. 1566), Sec. 1, eff. June 20, 2025.

Sec. 212.013. VACATING PLAT. (a) The proprietors of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.

(b) If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(c) The county clerk shall write legibly on the vacated plat the word "Vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

(d) On the execution and recording of the vacating instrument, the vacated plat has no effect.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.014. REPLATTING WITHOUT VACATING PRECEDING PLAT. A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat

if the replat:

(1) is signed and acknowledged by only the owners of the property being replatted;

(2) is approved by the municipal authority responsible for approving plats; and

(3) does not attempt to amend or remove any covenants or restrictions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1242 (H.B. 3314), Sec. 1, eff. September 1, 2019.

Sec. 212.0145. REPLATTING WITHOUT VACATING PRECEDING PLAT: CERTAIN SUBDIVISIONS. (a) A replat of a part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

(1) is signed and acknowledged by only the owners of the property being replatted; and

(2) involves only property:

(A) of less than one acre that fronts an existing street; and

(B) that is owned and used by a nonprofit corporation established to assist children in at-risk situations through volunteer and individualized attention.

(b) An existing covenant or restriction for property that is replatted under this section does not have to be amended or removed if:

(1) the covenant or restriction was recorded more than 50 years before the date of the replat; and

(2) the replatted property has been continuously used by the nonprofit corporation for at least 10 years before the date of the replat.

(c) Sections 212.014 and 212.015 do not apply to a replat under this section.

Added by Acts 1999, 76th Leg., ch. 1130, Sec. 1, eff. June 18, 1999.

Sec. 212.0146. REPLATTING WITHOUT VACATING PRECEDING PLAT: CERTAIN MUNICIPALITIES. (a) This section applies only to a replat of a subdivision or a part of a subdivision located in a municipality or the extraterritorial jurisdiction of a municipality with a population of 1.4 million or more.

(b) A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if:

(1) the replat is signed and acknowledged by each owner and only the owners of the property being replatted;

(2) the municipal authority responsible for approving plats holds a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard;

(3) the replat does not amend, remove, or violate, or have the effect of amending, removing, or violating, any covenants or restrictions that are contained or referenced in a dedicatory instrument recorded in the real property records separately from the preceding plat or replat;

(4) the replat does not attempt to amend, remove, or violate, or have the effect of amending, removing, or violating, any existing public utility easements without the consent of the affected utility companies; and

(5) the municipal authority responsible for approving plats approves the replat after determining that the replat complies with this subchapter and rules adopted under Section 212.002 and this section in effect at the time the application for the replat is filed.

(c) The governing body of a municipality may adopt rules governing replats, including rules that establish criteria under which covenants, restrictions, or plat notations that are contained only in the preceding plat or replat without reference in any dedicatory instrument recorded in the real property records separately from the preceding plat or replat may be amended or removed.

Added by Acts 2007, 80th Leg., R.S., Ch. 654 (H.B. 1067), Sec. 1, eff. June 15, 2007.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 60 (H.B. 1553), Sec. 1, eff. May 18, 2013.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 140, eff. September 1, 2023.

Sec. 212.015. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS. (a) In addition to compliance with Section 212.014, a replat without vacation of the preceding plat must conform to the requirements of this section if:

(1) during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

(2) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(a-1) If a proposed replat described by Subsection (a) requires a variance or exception, a public hearing must be held by the municipal planning commission or the governing body of the municipality.

(b) Notice of the hearing required under Subsection (a-1) shall be given before the 15th day before the date of the hearing by:

(1) publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and

(2) by written notice, with a copy of Subsection (c) attached, forwarded by the municipal authority responsible for approving plats to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.

(c) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the municipal planning commission or governing body, or both. For a legal protest, written instruments

signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the municipal planning commission or governing body, or both, prior to the close of the public hearing.

(d) In computing the percentage of land area under Subsection (c), the area of streets and alleys shall be included.

(e) Compliance with Subsections (c) and (d) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

(f) If a proposed replat described by Subsection (a) does not require a variance or exception, the municipality shall, not later than the 15th day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll. This subsection does not apply to a proposed replat if the municipal planning commission or the governing body of the municipality holds a public hearing and gives notice of the hearing in the manner provided by Subsection (b).

(g) The notice of a replat approval required by Subsection (f) must include:

(1) the zoning designation of the property after the replat; and

(2) a telephone number and e-mail address an owner of a lot may use to contact the municipality about the replat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 345, Sec. 2 to 5, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 1046, Sec. 3, eff. Aug. 30, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1242 (H.B. 3314), Sec. 2, eff. September 1, 2019.

Sec. 212.0155. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS

AFFECTING A SUBDIVISION GOLF COURSE. (a) This section applies to land located wholly or partly:

(1) in the corporate boundaries of a municipality if the municipality:

(A) has a population of more than 50,000; and

(B) is located wholly or partly in:

(i) a county with a population of more than three million;

(ii) a county with a population of more than 400,000 that is adjacent to a county with a population of more than three million; or

(iii) a county with a population of more than 1.4 million:

(a) in which two or more municipalities with a population of 300,000 or more are primarily located; and

(b) that is adjacent to a county with a population of more than two million; or

(2) in the corporate boundaries or extraterritorial jurisdiction of a municipality with a population of 1.9 million or more.

(b) In this section:

(1) "Management certificate" means a certificate described by Section 209.004, Property Code.

(2) "New plat" means a development plat, replat, amending plat, or vacating plat that would change the existing plat or the current use of the land that is the subject of the new plat.

(3) "Property owners' association" and "restrictive covenant" have the meanings assigned by Section 202.001, Property Code.

(4) "Restrictions," "subdivision," and "owner" have the meanings assigned by Section 201.003, Property Code.

(5) "Subdivision golf course" means an area of land:

(A) that was originally developed as a golf course or a country club within a common scheme of development for a predominantly residential single-family development project;

(B) that was at any time in the seven years preceding the date on which a new plat for the land is filed:

(i) used as a golf course or a country club;

(ii) zoned as a community facility;

(iii) benefited from restrictive covenants on

adjoining homeowners; or

(iv) designated on a recorded plat as a golf course or a country club; and

(C) that is not separated entirely from the predominantly residential single-family development project by a public street.

(c) In addition to any other requirement of this chapter, a new plat must conform to the requirements of this section if any of the area subject to the new plat is a subdivision golf course. The exception in Section 212.004(a) excluding divisions of land into parts greater than five acres for platting requirements does not apply to a subdivision golf course.

(d) A new plat that is subject to this section may not be approved until each municipal authority reviewing the new plat conducts a public hearing on the matter at which the parties in interest and citizens have an adequate opportunity to be heard, present evidence, and submit statements or petitions for consideration by the municipal authority. The number, location, and procedure for the public hearings may be designated by the municipal authority for a particular hearing. The municipal authority may abate, continue, or reschedule, as the municipal authority considers appropriate, any public hearing in order to receive a full and complete record on which to make a decision. If the new plat would otherwise be administratively approved, the municipal planning commission is the approving body for the purposes of this section.

(e) The municipal authority may not approve the new plat without adequate consideration of testimony and the record from the public hearings and making the findings required by Subsection (k). Not later than the 30th day after the date on which all proceedings necessary for the public hearings have concluded, the municipal authority shall take action on the application for the new plat. Sections 212.009(a) and (b) do not apply to the approval of plats under this section.

(f) The municipality may provide notice of the initial hearing required by Subsection (d) only after the requirements of Subsections (m) and (n) are met. The notice shall be given before the 15th day before the date of the hearing by:

(1) publishing notice in an official newspaper or a newspaper of general circulation in the county in which the municipality is located;

(2) providing written notice, with a copy of this section attached, by the municipal authority responsible for approving plats to:

(A) each property owners' association for each neighborhood benefited by the subdivision golf course, as indicated in the most recently filed management certificates; and

(B) the owners of lots that are within 200 feet of the area subject to the new plat, as indicated:

(i) on the most recently approved municipal tax roll; and

(ii) in the most recent online records of the central appraisal district of the county in which the lots are located; and

(3) any other manner determined by the municipal authority to be necessary to ensure that full and fair notice is provided to all owners of residential single-family lots in the general vicinity of the subdivision golf course.

(g) The written notice required by Subsection (f)(2) may be delivered by depositing the notice, properly addressed with postage prepaid, in the United States mail.

(h) The cost of providing the notices under Subsection (f) shall be paid by the plat applicant.

(i) If written instruments protesting the proposed new plat are signed by the owners of at least 20 percent of the area of the lots or land immediately adjacent to the area covered by a proposed new plat and extending 200 feet from that area and are filed with the municipal planning commission or the municipality's governing body before the conclusion of the public hearings, the proposed new plat must receive, to be approved, the affirmative vote of at least three-fifths of the members of the municipal planning commission or governing body.

(j) In computing the percentage of land area under Subsection (i), the area of streets and alleys is included.

(k) The municipal planning commission or the municipality's governing body may not approve a new plat under this section unless it determines that:

(1) there is adequate existing or planned infrastructure to support the future development of the subdivision golf course;

(2) based on existing or planned facilities, the development of the subdivision golf course will not have a materially

adverse effect on:

(A) traffic, parking, drainage, water, sewer, or other utilities;

(B) the health, safety, or general welfare of persons in the municipality; or

(C) safe, orderly, and healthful development of the municipality;

(3) the development of the subdivision golf course will not have a materially adverse effect on existing single-family property values;

(4) the new plat is consistent with all applicable land use regulations and restrictive covenants and the municipality's land use policies as described by the municipality's comprehensive plan or other appropriate public policy documents; and

(5) if any portion of a previous plat reflected a restriction on the subdivision golf course whether:

(A) that restriction is an implied covenant or easement benefiting adjacent residential properties; or

(B) the restriction, covenant, or easement has been legally released or has expired.

(l) The municipal authority may adopt rules to govern the platting of a subdivision golf course that do not conflict with this section, including rules that require more detailed information than is required by Subsection (n) for plans for development and new plat applications.

(m) The application for a new plat under this section is not complete and may not be submitted for review for administrative completeness unless the tax certificates required by Section 12.002(e), Property Code, are attached, notwithstanding that the application is for a type of plat other than a plat specified in that section.

(n) A plan for development or a new plat application for a subdivision golf course is not considered to provide fair notice of the project and nature of the permit sought unless it contains the following information, complete in all material respects:

(1) street layout;

(2) lot and block layout;

(3) number of residential units;

(4) location of nonresidential development, by type of development;

(5) drainage, detention, and retention plans;

(6) screening plan for adjacent residential properties, including landscaping or fencing; and

(7) an analysis of the effect of the project on values in the adjacent residential neighborhoods.

(o) A municipal authority with authority over platting may require as a condition for approval of a plat for a golf course that:

(1) the area be platted as a restricted reserve for the proposed use; and

(2) the plat be incorporated into the plat for any adjacent residential lots.

(p) An owner of a lot that is within 200 feet of a subdivision golf course may seek declaratory or injunctive relief from a district court to enforce the provisions in this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1092 (H.B. 3232), Sec. 1, eff. June 15, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 635 (H.B. 1473), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 675 (S.B. 1789), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 78, eff. September 1, 2011.

Sec. 212.016. AMENDING PLAT. (a) The municipal authority responsible for approving plats may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

(1) to correct an error in a course or distance shown on the preceding plat;

(2) to add a course or distance that was omitted on the preceding plat;

(3) to correct an error in a real property description shown on the preceding plat;

(4) to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible

for setting monuments;

(5) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(6) to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) to correct an error in courses and distances of lot lines between two adjacent lots if:

(A) both lot owners join in the application for amending the plat;

(B) neither lot is abolished;

(C) the amendment does not attempt to remove recorded covenants or restrictions; and

(D) the amendment does not have a material adverse effect on the property rights of the other owners in the plat;

(8) to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

(9) to relocate one or more lot lines between one or more adjacent lots if:

(A) the owners of all those lots join in the application for amending the plat;

(B) the amendment does not attempt to remove recorded covenants or restrictions; and

(C) the amendment does not increase the number of lots;

(10) to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:

(A) the changes do not affect applicable zoning and other regulations of the municipality;

(B) the changes do not attempt to amend or remove any covenants or restrictions; and

(C) the area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or

(11) to replat one or more lots fronting on an existing

street if:

(A) the owners of all those lots join in the application for amending the plat;

(B) the amendment does not attempt to remove recorded covenants or restrictions;

(C) the amendment does not increase the number of lots; and

(D) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 92, Sec. 2, eff. Aug. 28, 1995.

Sec. 212.017. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has a substantial interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract with a fair market value of $2,500 or more;

(2) acts as a developer of the tract;

(3) owns 10 percent or more of the voting stock or shares of or owns either 10 percent or more or $5,000 or more of the fair market value of a business entity that:

(A) has an equitable or legal ownership interest in the tract with a fair market value of $2,500 or more; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year funds from a business entity described by Subdivision (3) that exceed 10 percent of the person's gross income for the previous year.

(c) A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to another person who, under Subsection (b), has a

substantial interest in the tract.

(d) If a member of the municipal authority responsible for approving plats has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the municipal secretary or clerk.

(e) A member of the municipal authority responsible for approving plats commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the municipal authority responsible for approving plats unless the measure would not have passed the municipal authority without the vote of the member who violated this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 561, Sec. 38, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

Sec. 212.0175. ENFORCEMENT IN CERTAIN COUNTIES; PENALTY. (a) The attorney general may take any action necessary to enforce a requirement imposed by or under Section 212.0105 or 212.0106 or to ensure that water and sewer service facilities are constructed or installed to service a subdivision in compliance with the model rules adopted under Section 16.343, Water Code.

(b) A person who violates Section 212.0105 or 212.0106 or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on the plat or on the document attached to the plat, as required by Section 212.0105, is subject to a civil penalty of not less than $500 nor more than $1,000 plus court costs and attorney's fees.

(c) An owner of a tract of land commits an offense if the owner knowingly or intentionally violates a requirement imposed by or under Section 212.0105 or 212.0106 or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on a plat or on a document attached to a

plat, as required by Section 212.0105. An offense under this subsection is a Class B misdemeanor.

(d) A reference in this section to an "owner of a tract of land" does not include the owner of an individual lot in a subdivided tract of land.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989.

Sec. 212.018. ENFORCEMENT IN GENERAL. (a) At the request of the governing body of the municipality, the municipal attorney or any other attorney representing the municipality may file an action in a court of competent jurisdiction to:

(1) enjoin the violation or threatened violation by the owner of a tract of land of a requirement regarding the tract and established by, or adopted by the governing body under, this subchapter; or

(2) recover damages from the owner of a tract of land in an amount adequate for the municipality to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the tract and established by, or adopted by the governing body under, this subchapter.

(b) A reference in this section to an "owner of a tract of land" does not include the owner of an individual lot in a subdivided tract of land.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 46(b), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.01, eff. Sept. 1, 1989.

SUBCHAPTER B. REGULATION OF PROPERTY DEVELOPMENT

Sec. 212.041. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality whose governing body chooses by ordinance to be covered by this subchapter or chose by ordinance to be covered by the law codified by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 125, Sec. 1, eff. May 11, 1993; Acts 1993, 73rd Leg., ch. 1046, Sec. 4, eff. Aug. 30, 1993; Acts 1995,

74th Leg., ch. 76, Sec. 10.04, eff. Sept. 1, 1995.

Sec. 212.042. APPLICATION OF SUBCHAPTER A. The provisions of Subchapter A that do not conflict with this subchapter apply to development plats.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.043. DEFINITIONS. In this subchapter:

(1) "Development" means the new construction or the enlargement of any exterior dimension of any building, structure, or improvement.

(2) "Extraterritorial jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.044. PLANS, RULES, AND ORDINANCES. After a public hearing on the matter, the municipality may adopt general plans, rules, or ordinances governing development plats of land within the limits and in the extraterritorial jurisdiction of the municipality to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.045. DEVELOPMENT PLAT REQUIRED. (a) Any person who proposes the development of a tract of land located within the limits or in the extraterritorial jurisdiction of the municipality must have a development plat of the tract prepared in accordance with this subchapter and the applicable plans, rules, or ordinances of the municipality.

(b) A development plat must be prepared by a registered professional land surveyor as a boundary survey showing:

(1) each existing or proposed building, structure, or improvement or proposed modification of the external configuration of

the building, structure, or improvement involving a change of the building, structure, or improvement;

(2) each easement and right-of-way within or abutting the boundary of the surveyed property; and

(3) the dimensions of each street, sidewalk, alley, square, park, or other part of the property intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park, or other part.

(c) New development may not begin on the property until the development plat is filed with and approved by the municipality in accordance with Section 212.047.

(d) If a person is required under Subchapter A or an ordinance of the municipality to file a subdivision plat, a development plat is not required in addition to the subdivision plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1091, Sec. 28, eff. Sept. 1, 1989.

Sec. 212.046. RESTRICTION ON ISSUANCE OF BUILDING AND OTHER PERMITS BY MUNICIPALITY, COUNTY, OR OFFICIAL OF OTHER GOVERNMENTAL ENTITY. The municipality, a county, or an official of another governmental entity may not issue a building permit or any other type of permit for development on lots or tracts subject to this subchapter until a development plat is filed with and approved by the municipality in accordance with Section 212.047.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.047. APPROVAL OF DEVELOPMENT PLAT. The municipality shall endorse approval on a development plat filed with it if the plat conforms to:

(1) the general plans, rules, and ordinances of the municipality concerning its current and future streets, sidewalks, alleys, parks, playgrounds, and public utility facilities;

(2) the general plans, rules, and ordinances for the extension of the municipality or the extension, improvement, or widening of its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into

account access to and extension of sewer and water mains and the instrumentalities of public utilities; and

(3) any general plans, rules, or ordinances adopted under Section 212.044.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.048. EFFECT OF APPROVAL ON DEDICATION. The approval of a development plat is not considered an acceptance of any proposed dedication for public use or use by persons other than the owner of the property covered by the plat and does not impose on the municipality any duty regarding the maintenance or improvement of any purportedly dedicated parts until the municipality's governing body makes an actual appropriation of the dedicated parts by formal acceptance, entry, use, or improvement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.049. BUILDING PERMITS IN EXTRATERRITORIAL JURISDICTION. This subchapter does not authorize the municipality to require municipal building permits or otherwise enforce the municipality's building code in its extraterritorial jurisdiction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 212.050. ENFORCEMENT; PENALTY. (a) If it appears that a violation or threat of a violation of this subchapter or a plan, rule, or ordinance adopted under this subchapter or consistent with this subchapter exists, the municipality is entitled to appropriate injunctive relief against the person who committed, is committing, or is threatening to commit the violation.

(b) A suit for injunctive relief may be brought in the county in which the defendant resides, the county in which the violation or threat of violation occurs, or any county in which the municipality is wholly or partly located.

(c) In a suit to enjoin a violation or threat of a violation of this subchapter or a plan, rule, ordinance, or other order adopted under this subchapter, the court may grant the municipality any

prohibitory or mandatory injunction warranted by the facts including a temporary restraining order, temporary injunction, or permanent injunction.

(d) A person commits an offense if the person violates this subchapter or a plan, rule, or ordinance adopted under this subchapter or consistent with this subchapter within the limits of the municipality. An offense under this subsection is a Class C misdemeanor. Each day the violation continues constitutes a separate offense.

(e) A suit under this section shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.

(f) It is no defense to a criminal or civil suit under this section that an agency of government other than the municipality issued a license or permit authorizing the construction, repair, or alteration of any building, structure, or improvement. It also is no defense that the defendant had no knowledge of this subchapter or of an applicable plan, rule, or ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. DEVELOPER PARTICIPATION IN CONTRACT FOR PUBLIC IMPROVEMENTS

Sec. 212.071. DEVELOPER PARTICIPATION CONTRACT. Without complying with the competitive sealed bidding procedure of Chapter 252, a municipality with 5,000 or more inhabitants may make a contract with a developer of a subdivision or land in the municipality to construct public improvements, not including a building, related to the development. If the contract does not meet the requirements of this subchapter, Chapter 252 applies to the contract if the contract would otherwise be governed by that chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 47(b), eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 1547, Sec. 1, eff. Sept. 1, 1999.

Sec. 212.072. DUTIES OF PARTIES UNDER CONTRACT. (a) Under the contract, the developer shall construct the improvements and the municipality shall participate in their cost.

(b) The contract:

(1) must establish the limit of participation by the municipality at a level not to exceed 30 percent of the total contract price, if the municipality has a population of less than 1.8 million; or

(2) may allow participation by a municipality at a level not to exceed 70 percent of the total contract price, if the municipality has a population of 1.8 million or more.

(b-1) In addition, if the municipality has a population of 1.8 million or more, the municipality may participate at a level not to exceed 100 percent of the total contract price for all required drainage improvements related to the development and construction of affordable housing. Under this subsection, affordable housing is defined as housing which is equal to or less than the median sales price, as determined by the Texas Real Estate Research Center at Texas A&M University, of a home in the Metropolitan Statistical Area (MSA) in which the municipality is located.

(c) In addition, the contract may also allow participation by the municipality at a level not to exceed 100 percent of the total cost for any oversizing of improvements required by the municipality, including but not limited to increased capacity of improvements to anticipate other future development in the area.

(d) The municipality is liable only for the agreed payment of its share of the contract, which shall be determined in advance either as a lump sum or as a factor or percentage of the total actual cost as determined by municipal ordinance.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 47(b), eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 1526, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1075 (H.B. 1606), Sec. 1, eff. June 18, 2005.

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 13.005, eff. September 1, 2025.

Sec. 212.073. PERFORMANCE BOND. The developer must execute a performance bond for the construction of the improvements to ensure completion of the project. The bond must be executed by a corporate

surety in accordance with Chapter 2253, Government Code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 47(b), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(17), eff. Sept. 1, 1995.

Sec. 212.074. ADDITIONAL SAFEGUARDS; INSPECTION OF RECORDS. (a) In the ordinance adopted by the municipality under Section 212.072(b), the municipality may include additional safeguards against undue loading of cost, collusion, or fraud.

(b) All of the developer's books and other records related to the project shall be available for inspection by the municipality.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 47(b), eff. Aug. 28, 1989.

SUBCHAPTER D. REGULATION OF PROPERTY DEVELOPMENT PROHIBITED IN CERTAIN CIRCUMSTANCES

Sec. 212.101. APPLICATION OF SUBCHAPTER TO CERTAIN HOME-RULE MUNICIPALITY. This subchapter applies only to a home-rule municipality that:

(1) has a charter provision allowing for limited-purpose annexation; and

(2) has annexed territory for a limited purpose.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1, 1997.

Sec. 212.102. DEFINITIONS. In this subchapter:

(1) "Affected area" means an area that is:

(A) in a municipality or a municipality's extraterritorial jurisdiction;

(B) in a county other than the county in which a majority of the territory of the municipality is located;

(C) within the boundaries of one or more school districts other than the school district in which a majority of the territory of the municipality is located; and

(D) within the area of or within 1,500 feet of the boundary of an assessment road district in which there are two state

highways.

(2) "Assessment road district" means a road district that has issued refunding bonds and that has imposed assessments on each parcel of land under Subchapter C, Chapter 1471, Government Code.

(3) "State highway" means a highway that is part of the state highway system under Section 221.001, Transportation Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.289, eff. Sept. 1, 2001.

Sec. 212.103. TRAFFIC OR TRAFFIC OPERATIONS. (a) A municipality may not deny, limit, delay, or condition the use or development of land, any part of which is within an affected area, because of:

(1) traffic or traffic operations that would result from the proposed use or development of the land; or

(2) the effect that the proposed use or development of the land would have on traffic or traffic operations.

(b) In this section, an action to deny, limit, delay, or condition the use or development of land includes a decision or other action by the governing body of the municipality or by a commission, board, department, agency, office, or employee of the municipality related to zoning, subdivision, site planning, the construction or building permit process, or any other municipal process, approval, or permit.

(c) This subchapter does not prevent a municipality from exercising its authority to require the dedication of right-of-way.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1, 1997.

Sec. 212.104. PROVISION NOT ENFORCEABLE. A provision in a covenant or agreement relating to land in an affected area that would have the effect of denying, limiting, delaying, or conditioning the use or development of the land because of its effect on traffic or traffic operations may not be enforced by a municipality.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1,

1997.

Sec. 212.105. SUBCHAPTER CONTROLS. This subchapter controls over any other law relating to municipal regulation of land use or development based on traffic.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.02(a), eff. Sept. 1, 1997.

SUBCHAPTER E. MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN CIRCUMSTANCES

Sec. 212.131. DEFINITIONS. In this subchapter:

(1) "Essential public facilities" means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

(2) "Residential property" means property zoned for or otherwise authorized for single-family or multi-family use.

(3) "Property development" means the construction, reconstruction, or other alteration or improvement of residential or commercial buildings or the subdivision or replatting of a subdivision of residential or commercial property.

(4) "Commercial property" means property zoned for or otherwise authorized for use other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 1, eff. September 1, 2005.

Sec. 212.132. APPLICABILITY. This subchapter applies only to a moratorium imposed on property development affecting only residential property, commercial property, or both residential and commercial property.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 2, eff.

September 1, 2005.

Sec. 212.133. PROCEDURE FOR ADOPTING MORATORIUM. A municipality may not adopt a moratorium on property development unless the municipality:

(1) complies with the notice and hearing procedures prescribed by Section 212.134; and

(2) makes written findings as provided by Section 212.135, 212.1351, or 212.1352, as applicable.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 2, eff. September 1, 2005.

Sec. 212.134. NOTICE AND PUBLIC HEARING REQUIREMENTS. (a) Before a moratorium on property development may be imposed, a municipality must conduct public hearings as provided by this section.

(b) A public hearing must provide municipal residents and affected parties an opportunity to be heard. The municipality shall, not later than the 30th day before the date of a hearing:

(1) publish notice of the time and place of the hearing in a newspaper of general circulation in the municipality; and

(2) send notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary requesting notice of the hearing within two years preceding the date of adoption of the ordinance or resolution setting the public hearing.

(c) The governing body of a municipality shall hold two public hearings on a moratorium on property development proposed to be adopted under this subchapter. The governing body may not hold the second public hearing before the 30th day after the date of the first public hearing.

(d) Repealed by Acts 2025, 89th Leg., R.S., Ch. 414 (H.B. 2559), Sec. 3(1), eff. September 1, 2025.

(e) Repealed by Acts 2025, 89th Leg., R.S., Ch. 414 (H.B. 2559), Sec. 3(1), eff. September 1, 2025.

(f) Not later than the 12th day after the date of the second public hearing, the governing body of the municipality shall begin a final determination on the imposition of a moratorium by giving the ordinance imposing the moratorium at least two readings that are not less than 28 days apart. The ordinance must receive the affirmative vote of at least three-fourths of all members of the governing body on final reading in order to take effect. If the governing body fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection, the municipality may not adopt the ordinance.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 414 (H.B. 2559), Sec. 1, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 414 (H.B. 2559), Sec. 3(1), eff. September 1, 2025.

Sec. 212.135. JUSTIFICATION FOR MORATORIUM: SHORTAGE OF ESSENTIAL PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on property development, the moratorium is justified by demonstrating a need to prevent a shortage of essential public facilities. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating the extent of need beyond the estimated capacity of existing essential public facilities that is expected to result from new property development, including identifying:

(A) any essential public facilities currently operating near, at, or beyond capacity;

(B) the portion of that capacity committed to the development subject to the moratorium; and

(C) the impact fee revenue allocated to address the facility need; and

(2) evidence demonstrating that the moratorium is reasonably limited to:

(A) areas of the municipality where a shortage of essential public facilities would otherwise occur; and

(B) property that has not been approved for development because of the insufficiency of existing essential public facilities.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 2, eff. September 1, 2005.

Sec. 212.1351. JUSTIFICATION FOR MORATORIUM: SIGNIFICANT NEED FOR PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) Except as provided by Section 212.1352, a moratorium that is not based on a shortage of essential public facilities is justified only by demonstrating a significant need for other public facilities, including police and fire facilities. For purposes of this subsection, a significant need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities or would be detrimental to the health, safety, and welfare of the residents of the municipality. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating that applying existing development ordinances or regulations and other applicable laws is inadequate to prevent the new development from causing the overcapacity of municipal infrastructure or being detrimental to the public health, safety, and welfare in an affected geographical area;

(2) evidence demonstrating that alternative methods of achieving the objectives of the moratorium are unsatisfactory; and

(3) evidence demonstrating that the municipality has approved a working plan and time schedule for achieving the objectives of the moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 2, eff. September 1, 2005.

Sec. 212.1352. JUSTIFICATION FOR COMMERCIAL MORATORIUM IN CERTAIN CIRCUMSTANCES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on commercial property development that is not based on a demonstrated shortage of essential public

facilities, the municipality must issue written findings based on reasonably available information that the moratorium is justified by demonstrating that applying existing commercial development ordinances or regulations and other applicable laws is inadequate to prevent the new development from being detrimental to the public health, safety, or welfare of the residents of the municipality.

(b) The written findings must include a summary of:

(1) evidence demonstrating the need to adopt new ordinances or regulations or to amend existing ordinances, including identification of the harm to the public health, safety, or welfare that will occur if a moratorium is not adopted;

(2) the geographical boundaries in which the moratorium will apply;

(3) the specific types of commercial property to which the moratorium will apply; and

(4) the objectives or goals to be achieved by adopting new ordinances or regulations or amending existing ordinances or regulations during the period the moratorium is in effect.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 2, eff. September 1, 2005.

Sec. 212.1361. NOTICE FOR EXTENSION REQUIRED. A municipality proposing an extension of a moratorium under this subchapter must publish notice in a newspaper of general circulation in the municipality not later than the 15th day before the date of the hearing required by this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 2, eff. September 1, 2005.

Sec. 212.1362. EXPIRATION OF MORATORIUM; EXTENSION. (a) A moratorium adopted under this subchapter expires on the 90th day after the date the moratorium is adopted unless the governing body of the municipality extends the moratorium by:

(1) holding a public hearing on the proposed extension of the moratorium; and

(2) adopting written findings that:

(A) identify the problem requiring the need for

extending the moratorium;

(B) describe the reasonable progress made to alleviate the problem;

(C) specify a definite duration for the renewal period of the moratorium; and

(D) include a summary of evidence demonstrating that the problem will be resolved within the extended duration of the moratorium.

(b) A municipality may not adopt a moratorium under this subchapter:

(1) that exceeds an aggregate of 180 days; or

(2) before the second anniversary of the expiration date of a previous moratorium if the subsequent moratorium addresses the same harm, affects the same type of property, or affects the same geographical area identified by the previous moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 2, eff. September 1, 2005.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 414 (H.B. 2559), Sec. 2, eff. September 1, 2025.

Sec. 212.137. WAIVER PROCEDURES REQUIRED. (a) A moratorium adopted under this subchapter must allow a permit applicant to apply for a waiver from the moratorium relating to the property subject to the permit by:

(1) claiming a right obtained under a development agreement; or

(2) providing the public facilities that are the subject of the moratorium at the landowner's cost.

(b) The permit applicant must submit the reasons for the request to the governing body of the municipality in writing. The governing body of the municipality must vote on whether to grant the waiver request within 10 days after the date of receiving the written request.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 2, eff. September 1, 2005.

Sec. 212.138. EFFECT ON OTHER LAW. A moratorium adopted under this subchapter does not affect the rights acquired under Chapter 245 or common law.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.139. LIMITATION ON MORATORIUM. (a) A moratorium adopted under this subchapter does not affect an application for a project in progress under Chapter 245.

(b) A municipality may not adopt a moratorium under this subchapter that:

(1) prohibits a person from filing or processing an application for a project in progress under Chapter 245; or

(2) prohibits or delays the processing of an application for zoning filed before the effective date of the moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. 3461), Sec. 2, eff. September 1, 2005.

SUBCHAPTER F. ENFORCEMENT OF LAND USE RESTRICTIONS CONTAINED IN PLATS AND OTHER INSTRUMENTS

Sec. 212.151. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality:

(1) with a population of 1.5 million or more that passes an ordinance that requires uniform application and enforcement of this subchapter with regard to all property and residents;

(2) with a population of less than 4,500 that:

(A) is located in two counties, one of which has a population greater than 45,000; and

(B) borders Lake Lyndon B. Johnson; or

(3) that does not have zoning ordinances and passes an ordinance that requires uniform application and enforcement of this subchapter with regard to all property and residents.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 893, Sec. 1, eff. Sept. 1, 1991. Renumbered from Local Government Code Sec. 230.001 by Acts 2001, 77th

Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 212.131 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 475 (S.B. 1090), Sec. 3, eff. September 1, 2021.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 141, eff. September 1, 2023.

Sec. 212.152. DEFINITION. In this subchapter, "restriction" means a land-use regulation that:

(1) affects the character of the use to which real property, including residential and rental property, may be put;

(2) fixes the distance that a structure must be set back from property lines, street lines, or lot lines;

(3) affects the size of a lot or the size, type, and number of structures that may be built on the lot;

(4) regulates or restricts the type of activities that may take place on the property, including commercial activities, sweepstakes activities, keeping of animals, use of fire, nuisance activities, vehicle storage, and parking;

(5) regulates architectural features of a structure, construction of fences, landscaping, garbage disposal, or noise levels; or

(6) specifies the type of maintenance that must be performed on a lot or structure, including maintenance of a yard or fence.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Sec. 230.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1044, Sec. 1, eff. Sept. 1, 2003. Renumbered from Local Government Code, Sec. 212.132 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.

Sec. 212.153. SUIT TO ENFORCE RESTRICTIONS. (a) Except as provided by Subsection (b), the municipality may sue in any court of competent jurisdiction to enjoin or abate a violation of a

restriction contained or incorporated by reference in a properly recorded plan, plat, or other instrument that affects a subdivision located inside the boundaries of the municipality.

(b) The municipality may not initiate or maintain a suit to enjoin or abate a violation of a restriction if a property owners' association with the authority to enforce the restriction files suit to enforce the restriction.

(c) In a suit by a property owners' association to enforce a restriction, the association may not submit into evidence or otherwise use the work product of the municipality's legal counsel.

(d) In a suit filed under this section alleging that any of the following activities violates a restriction limiting property to residential use, it is not a defense that the activity is incidental to the residential use of the property:

(1) storing a tow truck, crane, moving van or truck, dump truck, cement mixer, earth-moving device, or trailer longer than 20 feet; or

(2) repairing or offering for sale more than two motor vehicles in a 12-month period.

(e) A municipality may not enforce a deed restriction which purports to regulate or restrict the rights granted to public utilities to install, operate, maintain, replace, and remove facilities within easements and private or public rights-of-way.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Sec. 230.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1044, Sec. 2, eff. Sept 1, 2003. Renumbered from Local Government Code, Sec. 212.133 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.

Sec. 212.1535. FORECLOSURE BY PROPERTY OWNERS' ASSOCIATION. (a) A municipality may not participate in a suit or other proceeding to foreclose a property owners' association's lien on real property.

(b) In a suit or other proceeding to foreclose a property owners' association's lien on real property in the subdivision, the association may not submit into evidence or otherwise use the work product of the municipality's legal counsel.

Added by Acts 2003, 78th Leg., ch. 1044, Sec. 4, eff. Sept. 1, 2003.

Renumbered from Local Government Code, Section 212.1335 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(53), eff. September 1, 2007

Sec. 212.154. LIMITATION ON ENFORCEMENT. A restriction contained in a plan, plat, or other instrument that was properly recorded before August 30, 1965, may be enforced as provided by Section 212.153, but a violation of a restriction that occurred before that date may not be enjoined or abated by the municipality as long as the nature of the violation remains unchanged.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code Sec. 230.004 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 212.134 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), 3(33), eff. Sept. 1, 2003.

Sec. 212.155. NOTICE TO PURCHASERS. (a) The governing body of the municipality may require, in the manner prescribed by law for official action of the municipality, any person who sells or conveys restricted property located inside the boundaries of the municipality to first give to the purchaser written notice of the restrictions and notice of the municipality's right to enforce compliance.

(b) If the municipality elects under this section to require that notice be given, the notice to the purchaser shall contain the following information:

(1) the name of each purchaser;

(2) the name of each seller;

(3) a legal description of the property;

(4) the street address of the property;

(5) a statement that the property is subject to deed restrictions and the municipality is authorized to enforce the restrictions;

(6) a reference to the volume and page, clerk's file number, or film code number where the restrictions are recorded; and

(7) a statement that provisions that restrict the sale, rental, or use of the real property on the basis of race, color,

religion, sex, or national origin are unenforceable.

(c) If the municipality elects under this section to require that notice be given, the following procedure shall be followed to ensure the delivery and recordation of the notice:

(1) the notice shall be given to the purchaser at or before the final closing of the sale and purchase;

(2) the seller and purchaser shall sign and acknowledge the notice; and

(3) following the execution, acknowledgment, and closing of the sale and purchase, the notice shall be recorded in the real property records of the county in which the property is located.

(d) If the municipality elects under this section to require that notice be given:

(1) the municipality shall file in the real property records of the county clerk's office in each county in which the municipality is located a copy of the form of notice, with its effective date, that is prescribed for use by any person who sells or conveys restricted property located inside the boundaries of the municipality;

(2) all sellers and all persons completing the prescribed notice on the seller's behalf are entitled to rely on the currently effective form filed by the municipality;

(3) the municipality may prescribe a penalty against a seller, not to exceed $500, for the failure of the seller to obtain the execution and recordation of the notice; and

(4) an action may not be maintained by the municipality against a seller to collect a penalty for the failure to obtain the execution and recordation of the notice if the municipality has not filed for record the form of notice with the county clerk of the appropriate county.

(e) This section does not limit the seller's right to recover a penalty, or any part of a penalty, imposed pursuant to Subsection (d)(3) from a third party for the negligent failure to obtain the execution or proper recordation of the notice.

(f) The failure of the seller to comply with the requirements of this section and the implementing municipal regulation does not affect the validity or enforceability of the sale or conveyance of restricted property or the validity or enforceability of restrictions covering the property.

(g) For the purposes of this section, an executory contract of

purchase and sale having a performance period of more than six months is considered a sale under Subsection (a).

(h) For the purposes of the disclosure required by this section, restrictions may not include provisions that restrict the sale, rental, or use of property on the basis of race, color, religion, sex, or national origin and may not include any restrictions that by their express provisions have terminated.

Added by Acts 1989, 71st Leg., ch. 446, Sec. 1, eff. June 14, 1989. Renumbered from Local Government Code Sec. 230.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 212.135 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.

Sec. 212.156. ENFORCEMENT BY ORDINANCE; CIVIL PENALTY. (a) The governing body of the municipality by ordinance may require compliance with a restriction contained or incorporated by reference in a properly recorded plan, plat, or other instrument that affects a subdivision located inside the boundaries of the municipality.

(b) The municipality may bring a civil action to recover a civil penalty for a violation of the restriction. The municipality may bring an action and recover the penalty in the same manner as a municipality may bring an action and recover a penalty under Subchapter B, Chapter 54.

(c) For the purposes of an ordinance adopted under this section, restrictions do not include provisions that restrict the sale, rental, or use of property on the basis of race, color, religion, sex, or national origin and do not include any restrictions that by their express provisions have terminated.

Added by Acts 1991, 72nd Leg., ch. 893, Sec. 2, eff. Sept. 1, 1991. Renumbered from Local Government Code Sec. 230.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(1), eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 212.136 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(107), eff. Sept. 1, 2003.

Sec. 212.157. GOVERNMENTAL FUNCTION. An action filed by a municipality under this subchapter to enforce a land use restriction is a governmental function of the municipality.

Added by Acts 2001, 77th Leg., ch. 1399, Sec. 2, eff. June 16, 2001. Renumbered from Local Government Code, Section 230.007 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(56), eff. September 1, 2007

Sec. 212.158. EFFECT ON OTHER LAW. This subchapter does not prohibit the exhibition, play, or necessary incidental action thereto of a sweepstakes not prohibited by Chapter 622, Business & Commerce Code.

Added by Acts 2003, 78th Leg., ch. 1044, Sec. 5, eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.25, eff. April 1, 2009.

Renumbered from Local Government Code, Section 212.138 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(54), eff. September 1, 2007.

SUBCHAPTER G. AGREEMENT GOVERNING CERTAIN LAND IN A MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

Sec. 212.171. APPLICABILITY. This subchapter does not apply to land located in the extraterritorial jurisdiction of a municipality with a population of 1.9 million or more.

Added by Acts 2003, 78th Leg., ch. 522, Sec. 1, eff. June 20, 2003.

Sec. 212.172. DEVELOPMENT AGREEMENT. (a) In this subchapter:

(1) "Adjudication" of a claim means the bringing of a civil suit and prosecution to final judgment in county or state court and includes the bringing of an authorized arbitration proceeding and prosecution to final resolution in accordance with any mandatory procedures established in the contract agreement for the arbitration proceedings.

(2) "Contract" means a contract for a development agreement authorized by this subchapter.

(3) "Extraterritorial jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42.

(b) The governing body of a municipality may make a written

contract with an owner of land that is located in the extraterritorial jurisdiction of the municipality to:

(1) guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality;

(2) extend the municipality's planning authority over the land by providing for a development plan to be prepared by the landowner and approved by the municipality under which certain general uses and development of the land are authorized;

(3) authorize enforcement by the municipality of certain municipal land use and development regulations in the same manner the regulations are enforced within the municipality's boundaries;

(4) authorize enforcement by the municipality of land use and development regulations other than those that apply within the municipality's boundaries, as may be agreed to by the landowner and the municipality;

(5) provide for infrastructure for the land, including:

(A) streets and roads;

(B) street and road drainage;

(C) land drainage; and

(D) water, wastewater, and other utility systems;

(6) authorize enforcement of environmental regulations;

(7) provide for the annexation of the land as a whole or in parts and to provide for the terms of annexation, if annexation is agreed to by the parties;

(8) specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties; or

(9) include other lawful terms and considerations the parties consider appropriate.

(b-1) At the time a municipality makes an offer to a landowner to enter into an agreement under this subchapter, the municipality must provide the landowner with a written disclosure that includes:

(1) a statement that the landowner is not required to enter into the agreement;

(2) the authority under which the municipality may annex the land with references to relevant law;

(3) a plain-language description of the annexation procedures applicable to the land;

(4) whether the procedures require the landowner's consent; and

(5) a statement regarding the municipality's waiver of immunity to suit.

(b-2) An agreement for which a disclosure is not provided in accordance with Subsection (b-1) is void.

(c) A contract must:

(1) be in writing;

(2) contain an adequate legal description of the land;

(3) be approved by the governing body of the municipality and the landowner; and

(4) be recorded in the real property records of each county in which any part of the land that is subject to the contract is located.

(d) The total duration of the contract and any successive renewals or extensions may not exceed 45 years.

(e) A municipality in an affected county, as defined by Section 16.341, Water Code, may not enter into a contract that is inconsistent with the model rules adopted under Section 16.343, Water Code.

(f) The contract between the governing body of the municipality and the landowner is binding on the municipality and the landowner and on their respective successors and assigns for the term of the contract. The contract is not binding on, and does not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the development, except for land use and development regulations that may apply to a specific lot. Annexation by a municipality of land subject to a contract does not invalidate the enforceability of the contract or infringe on the rights of a party to adjudicate a claim arising under the contract.

(g) A contract:

(1) constitutes a permit under Chapter 245; and

(2) is a program authorized by the legislature under Section 52-a, Article III, Texas Constitution.

(h) A contract between a municipality and a landowner entered into prior to the effective date of this section, or any amendment to this section, and that complies with this section is validated, enforceable, and may be adjudicated subject to the terms and conditions of this subchapter, as amended.

(i) A municipality that enters into a contract waives immunity from suit for the purpose of adjudicating a claim for breach of the contract.

(j) Except as provided by Subsection (k), actual damages, specific performance, or injunctive relief may be granted in an adjudication brought against a municipality for breach of a contract. The total amount of money awarded in an adjudication brought against a municipality for breach of a contract is limited to the following:

(1) the balance due and owed by the municipality under the contract as it may have been amended;

(2) any amount owed by the landowner as a result of the municipality's failure to perform under the contract, including compensation for the increased cost of infrastructure as a result of delays or accelerations caused by the municipality;

(3) reasonable attorney's fees; and

(4) interest as allowed by law, including interest as calculated under Chapter 2251, Government Code.

(k) Damages awarded in an adjudication brought against a municipality for breach of a contract may not include:

(1) consequential damages, except as expressly allowed under Subsection (j)(2); or

(2) exemplary damages.

Added by Acts 2003, 78th Leg., ch. 522, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 281 (H.B. 1643), Sec. 1, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 103 (S.B. 1338), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 678 (H.B. 1929), Sec. 1, eff. September 1, 2021.

Sec. 212.173. CERTAIN COASTAL AREAS. This subchapter does not apply to, limit, or otherwise affect any ordinance, order, rule, plan, or standard adopted by this state or a state agency, county, municipality, or other political subdivision of this state under the federal Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.), and its subsequent amendments, or Subtitle E, Title 2, Natural Resources Code.

Added by Acts 2003, 78th Leg., ch. 522, Sec. 1, eff. June 20, 2003.

Sec. 212.174. MUNICIPAL UTILITIES. A municipality may not require a contract as a condition for providing water, sewer, electricity, gas, or other utility service from a municipally owned or municipally operated utility that provides any of those services.

Added by Acts 2003, 78th Leg., ch. 522, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 678 (H.B. 1929), Sec. 2, eff. September 1, 2021.

SUBCHAPTER H. MULTIFAMILY, HOTEL, AND MOTEL PARKLAND DEDICATION: MUNICIPALITIES WITH POPULATION OF MORE THAN 800,000

Sec. 212.201. DEFINITIONS. In this subchapter:

(1) "Affordable dwelling unit" means a residential unit offered at a below market rate for rent or sale under a municipal, county, state, or federal program.

(2) "Consumer price index" means the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, published by the Bureau of Labor Statistics of the United States Department of Labor or its successor in function.

(3) "Improvement" and "market value" have the meanings assigned by Section 1.04, Tax Code.

(4) "Land value" means the market value of land per acre, not including an improvement to the land.

(5) "Median family income" means the United States Census Bureau's most recent American Community Survey's five-year estimate of median family income for all families within the applicable municipality.

(6) "Multifamily unit" means a residential unit other than a detached single-family or two-family dwelling.

(7) "Parkland" means an area that is designated as a park for the purpose of recreational activity. The term includes an open space, a recreational facility, and a trail.

(8) "Parkland dedication" means the fee simple transfer of land or the dedication of an easement to a municipality for nonexclusive use as parkland.

(9) "Parkland dedication fee" means a fee imposed by a municipality on a landowner for the acquisition, development, repair, and maintenance of parkland.

(10) "Plan" means a subdivision development plan, subdivision plan, site plan, land development plan, and site development plan each proposing the development of multifamily, hotel, or motel units.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.202. APPLICABILITY. This subchapter applies only to a municipality with a population of more than 800,000.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.203. CONSTRUCTION. This subchapter may not be construed to prohibit a municipality from requiring by ordinance a landowner to dedicate a portion of the landowner's property for parkland use, impose a parkland dedication fee, or both require the dedication and impose the fee for the development of single-family or two-family uses.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.204. EXCLUSIVE AUTHORITY; LIMITATION. (a) Notwithstanding any other law, a municipality has exclusive authority within its boundaries to require the dedication of parkland, impose a parkland dedication fee, or both require the dedication and impose the fee. A municipality may not delegate that authority to another political subdivision.

(b) A municipality may only exercise its authority under this section through a plan application in accordance with this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.205. PARKLAND DEDICATION, FEE, OR COMBINATION. (a) A municipality may require a landowner to dedicate a portion of the landowner's property for parkland use, impose a parkland dedication fee, or both require the dedication and impose the fee under a plan application filed under this subchapter by:

(1) paying a fee set in accordance with Section 212.210(b) or 212.211(b), as applicable; or

(2) dedicating a portion up to the maximum size authorized under Section 212.208 and paying a reduced fee set in accordance with Section 212.210(d) or 212.211(c), as applicable.

(b) A municipality may allow a landowner to elect a parkland dedication, a parkland dedication fee, or a dedication and fee under Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.206. REQUEST FOR PARKLAND DEDICATION DETERMINATION. (a) A landowner may, at the landowner's sole discretion, make a written request to a municipality that the municipality make a timely determination of the dedication amount the municipality will impose under the municipality's parkland dedication requirements as applied to the landowner's property being considered for development.

(b) A municipality may make a reasonable written request to the landowner for additional information that is:

(1) publicly and readily available; and

(2) necessary to provide a determination under this section.

(c) A municipality shall respond in writing to a request made under Subsection (a) not later than the 30th day after the date the municipality receives a completed request. If the municipality fails to respond in accordance with this subsection, the municipality may not require a parkland dedication as a condition of approval of a proposed plan or application for property that is the subject of the request.

(d) A parkland dedication determination issued under this section:

(1) is a legally binding determination of the amount of the landowner's parkland dedication for the property that is the subject

of the determination; and

(2) is applicable to the property that is the subject of the determination for a period that is the lesser of:

(A) two years; or

(B) the time between the date the determination is issued and the date a plan application is filed that uses or relies on the determination.

(e) A landowner may release in writing a municipality from a determination made under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.207. PARKLAND DEDICATION AUTHORITY. (a) A municipality may not require a parkland dedication, impose a parkland dedication fee, or both require the dedication and impose the fee for any commercial use. For the purpose of this section, a commercial use does not include a multifamily, hotel, or motel use.

(b) If a plan application submitted to a municipality proposes development of the land subject to the application that includes both multifamily, hotel, or motel and commercial uses, the municipality shall determine the amount of a parkland dedication based only on the pro rata portion of the land proposed for multifamily, hotel, or motel use.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.208. LIMITATION ON PARKLAND DEDICATION AMOUNT. A municipality may not require a landowner to dedicate as parkland under this subchapter more than 10 percent, without adjustment or disqualification for impairment, of the gross site area of the land subject to a plan application.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.209. INITIAL REQUIREMENTS FOR DETERMINING FEES. (a)

For purposes of determining the amount of a fee imposed under this section, the governing body of a municipality, after providing at least 30 days' public notice and holding a public hearing, shall by official action designate all territory within its municipal boundaries as a suburban area, urban area, or central business district area. The governing body may use the same designation for multiple areas in the municipality. The governing body may amend a designation only during the adoption or amendment of a municipal comprehensive plan under Chapter 213.

(b) Not later than the 10th day after the date the municipality designates its territory under Subsection (a), the municipality shall notify each appraisal district in which the municipality is wholly or partly located of the designation.

(c) Once every 10 years, each appraisal district in which the municipality is wholly or partly located shall calculate and provide to the municipality the average land value for each area or portion of an area designated by the municipality under Subsection (a) that is located in the district.

(d) If multiple appraisal districts calculate an average land value for different portions of an area designated under Subsection (a), the municipality shall determine the area's total average land value by:

(1) multiplying each district's calculated value for the portion located in the district by the percentage, expressed as a fraction, that the portion is to the total area; and

(2) adding the resulting amounts.

(e) In each year other than the year in which an appraisal district calculates average land values under Subsection (c), a municipality shall calculate the average land value for each area designated under Subsection (a) by multiplying the previous year's average land value for the area by one plus the average consumer price index for each month of the previous year.

(f) A municipality shall set the municipality's dwelling unit factor, which reflects the number of parkland acres for each dwelling unit proposed by a plan application. The factor may not be more than:

(1).005 for multifamily units; and

(2).004 for rooms in a hotel or motel ordinarily used for sleeping.

(g) A municipality shall set the municipality's density factor, which reflects the diminishing expectation of parkland acres per

dwelling unit in increasingly dense urban environments, for each area designated by the municipality under Subsection (a). The density factor may not be less than:

(1) one for the suburban area;

(2) four for the urban area; and

(3) 40 for the central business district area.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.210. GENERAL REQUIREMENTS FOR CALCULATION OF FEES. (a) This section applies only to a municipality to which Section 212.211 does not apply.

(b) A municipality shall determine the amount of a fee imposed under Section 212.205(a)(1) for land subject to a plan application by:

(1) adding, as appropriate:

(A) the product of the number of multifamily units proposed by the plan by the dwelling unit factor prescribed by Section 212.209(f)(1); and

(B) the product of the number of hotel and motel rooms ordinarily used for sleeping proposed by the plan by the dwelling unit factor prescribed by Section 212.209(f)(2);

(2) multiplying the sum calculated under Subdivision (1) by the average land value for the area in which the land is located; and

(3) dividing the product calculated under Subdivision (2) by the applicable density factor.

(c) For purposes of Subsection (b)(1), a municipality shall exclude from a plan application the number of affordable dwelling units proposed by the plan.

(d) A municipality shall determine the amount of a fee imposed under Section 212.205(a)(2) for land subject to a plan application by:

(1) calculating the amount of the fee for the land under Subsection (b); and

(2) subtracting from the amount calculated under Subdivision (1) the product of the land value applicable to the land and the number of acres dedicated.

(e) If a calculation made under Subsection (d) results in a

negative number, the applicable landowner is entitled to receive from the applicable municipality the amount equal to the positive difference between the calculated amount and zero. The municipality shall pay that amount to the landowner at the time of transfer of fee simple title or the recording of the easement.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.211. REQUIREMENTS CALCULATION OF FEES FOR MUNICIPALITIES WITH LOW FEES. (a) This section applies only to a municipality that after August 31, 2023, requires a parkland dedication fee for a multifamily, hotel, or motel development in an amount, calculated on a per dwelling unit basis, not greater than two percent of the median family income.

(b) A municipality to which this section applies may set a parkland dedication fee. If the municipality elects to set the fee in an amount greater than two percent of the municipality's median family income:

(1) this section no longer applies to the municipality; and

(2) the municipality must set the fee in accordance with Section 212.210.

(c) A municipality shall determine the amount of a fee imposed under Section 212.205(a)(2) for land subject to a plan application by subtracting from the amount of the fee set under Subsection (b) the product of the land value applicable to the land and the number of acres dedicated.

(d) If a calculation made under Subsection (c) results in a negative number, the applicable landowner is entitled to receive from the applicable municipality the amount equal to the positive difference between the calculated amount and zero. The municipality shall pay that amount to the landowner at the time of transfer of fee simple title or the recording of the easement.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.212. COLLECTION OF FEES. A municipality shall provide a landowner a written determination of fees owed under this

subchapter before approving a plan application but may only collect a fee authorized under this subchapter as a precondition to the issuance of a final certificate of occupancy.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

Sec. 212.213. APPEAL. (a) A landowner may appeal a determination made by a municipal department, board, or commission regarding any element of a parkland dedication requirement, including amount, orientation, or suitability, as that element applies to the landowner's property, to the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality. The appeal must include a requested adjudication of the issue in controversy.

(b) A landowner may appeal a municipal planning commission's determination under Subsection (a) to the governing body of the municipality.

(c) In an appeal under this section, a municipal planning commission or governing body of a municipality may uphold, reverse, or modify a parkland dedication requirement as applied to the landowner making the appeal.

(d) A municipal planning commission or governing body of a municipality shall uphold, reverse, or modify a parkland dedication requirement that is the subject of an appeal not later than the 60th day after the date the appeal is filed with the commission or governing body. If the commission or governing body fails to act in accordance with this subsection, the parkland dedication requirement is considered resolved in favor of the landowner's requested adjudication.

Added by Acts 2023, 88th Leg., R.S., Ch. 493 (H.B. 1526), Sec. 1, eff. June 10, 2023.

SUBCHAPTER I. ABANDONED, UNOCCUPIED, AND TAX DELINQUENT UNDEVELOPED PARCELS IN CERTAIN MUNICIPALITIES

Sec. 212.301. APPLICABILITY. (a) This subchapter applies to a municipality that is located in a county that:

(1) contains a municipality with a population of more than

500,000; and

(2) is adjacent to an international border.

(b) This subchapter applies only to land that is located within the boundaries of a municipality.

Added by Acts 2025, 89th Leg., R.S., Ch. 1007 (S.B. 1579), Sec. 1, eff. September 1, 2025.

Sec. 212.302. ADMINISTRATIVE DETERMINATION. (a) The governing body of a municipality may implement an expedited process to administratively determine that an undeveloped parcel of land is abandoned, unoccupied, and tax delinquent if the parcel:

(1) has never been platted or surveyed or has remained undeveloped and unoccupied for 25 years or more after the date the land was platted or surveyed;

(2) if located in a subdivision, is part of a subdivision in which 50 percent or more of the parcels are:

(A) undeveloped, abandoned, or unoccupied; and

(B) 10 acres or less in size;

(3) has an assessed value of less than $1,000 as indicated on the most recent appraisal roll for the appraisal district in which the parcel is located;

(4) is not valued for ad valorem taxation as land for agricultural use under Subchapter C, Chapter 23, Tax Code;

(5) has delinquent ad valorem taxes owed for the current tax year, as defined by Section 1.04, Tax Code; and

(6) has delinquent ad valorem taxes owed for at least 5 out of the preceding 10 tax years.

(b) The municipality does not have an ownership interest in any undeveloped parcel of land that is administratively determined to be abandoned, unoccupied, and tax delinquent or that is placed in a receivership under this subchapter, except for any existing or future legal interest established by other law.

Added by Acts 2025, 89th Leg., R.S., Ch. 1007 (S.B. 1579), Sec. 1, eff. September 1, 2025.

Sec. 212.303. PUBLIC HEARING. (a) Before a municipality may make an administrative determination under Section 212.302, the

municipality must:

(1) hold a public hearing on the matter; and

(2) make reasonable efforts to notify each owner and lienholder of the parcel of land of the time and place of the hearing as provided by Section 212.304.

(b) The hearing may be held by the governing body of the municipality or an appropriate municipal commission or board appointed by the governing body. The Texas Rules of Evidence do not apply to a hearing conducted under this section.

(c) At the hearing, an owner or lienholder may provide testimony and present evidence to refute any of the applicable factors for a determination under Section 212.302. It is an affirmative defense to a determination under Section 212.302 that the ad valorem taxes imposed on a parcel of land have been paid in full and no delinquent ad valorem taxes or penalties are owed on the parcel at the time of the hearing, regardless of whether the taxes or penalties were paid after the notice provided under Section 212.304.

(d) The municipality may conduct a single hearing for multiple parcels of land and make a determination that multiple parcels of land are abandoned, unoccupied, and tax delinquent based on the same evidence.

(e) Not later than the 14th day after the date of the hearing, if a parcel of land is determined to be abandoned, unoccupied, and tax delinquent, the municipality shall issue a resolution of its determination.

(f) Not later than the 14th day after the date of the resolution, the municipality shall:

(1) post notice of the resolution at the city hall; and

(2) publish in a newspaper of general circulation in the municipality in which the parcel of land is located a notice of the determination containing:

(A) a description of the parcel;

(B) the date of the hearing;

(C) a brief statement of the results of the resolution;

(D) instructions stating where a complete copy of the resolution may be obtained; and

(E) notice that the resolution is appealable to a district court in the county within 60 calendar days of the resolution.

(g) In lieu of the notice required by Subsection (f), the

municipality may:

(1) post the information required by Subsection (f)(2) on the municipality's Internet website; and

(2) publish a notice in a newspaper of general circulation in the municipality in which the parcel of land is located stating that:

(A) the governing body of the municipality has adopted a resolution under this subchapter; and

(B) the information required by Subsection (f)(2) may be found on the municipality's Internet website.

Added by Acts 2025, 89th Leg., R.S., Ch. 1007 (S.B. 1579), Sec. 1, eff. September 1, 2025.

Sec. 212.304. NOTICE OF HEARING. (a) The municipality shall:

(1) provide notice of the hearing to each record owner of the applicable parcel of land, each person who paid the ad valorem taxes imposed on the parcel of land during the 15 most recent tax years, and each holder of a recorded lien against the applicable parcel of land by:

(A) personal delivery;

(B) certified mail with return receipt requested to the last known address of each owner, each person who paid the ad valorem taxes imposed on the parcel of land during the 15 most recent tax years, and each lienholder; or

(C) delivery to the last known address of each owner, each person who paid the ad valorem taxes imposed on the parcel of land during the 15 most recent tax years, and each lienholder by the United States Postal Service using signature confirmation services;

(2) publish notice of the hearing in a newspaper of general circulation in the municipality and on the municipality's Internet website on or before the 10th day before the date of the hearing; and

(3) file in the property records of the county in which the parcel of land is located notice of the hearing that contains:

(A) the name and last known address of the owner of the applicable parcel of land; and

(B) a description of the administrative determination proceeding, including notice that the administrative determination may result in the extinguishment of any and all rights and legal

interests in the parcel of land.

(b) Notice under Subsection (a)(1) must be provided to each owner, each person who paid the ad valorem taxes imposed on the parcel of land during the 15 most recent tax years, and each lienholder for whom an address can be reasonably ascertained from the deed of trust or other applicable instrument on file in the office of the county clerk for the county in which the parcel of land is located, in the records of the county tax office for the county in which the parcel of land is located, or in the records of the office of the central appraisal district for the county in which the parcel of land is located. The filed notice under Subsection (a)(3) must contain the name and address of each owner to the extent that that information can be reasonably ascertained from the deed of trust or other applicable instrument on file in the office of the county clerk, in the records of the county tax office, or in the records of the office of the central appraisal district for the county.

(c) The filing of notice under Subsection (a)(3):

(1) is binding on subsequent grantees, lienholders, or other transferees of an interest in the parcel of land who acquire that interest after the filing of the notice; and

(2) constitutes notice of the proceeding on any subsequent recipient of any interest in the parcel of land who acquires that interest after the filing of the notice.

(d) An owner or lienholder is presumed to have received actual and constructive notice of the hearing if the municipality complies with this section, regardless of whether the municipality receives a response from the person.

Added by Acts 2025, 89th Leg., R.S., Ch. 1007 (S.B. 1579), Sec. 1, eff. September 1, 2025.

Sec. 212.305. JUDICIAL REVIEW. (a) Any owner or lienholder of record of a parcel of land aggrieved by a resolution issued under Section 212.303 may file in a district court in the county in which the parcel of land is located a verified petition alleging that the decision is illegal, wholly or partly, and stating with specificity the grounds of the alleged illegality. The petition must be filed by an owner, owner's agent, or lienholder of the parcel of land within 60 calendar days of the resolution. If a petition is not filed

within 60 calendar days of the resolution, the resolution shall become final.

(b) On the filing of a petition under Subsection (a), the court may issue a writ of certiorari directed to the municipality to review the resolution of the municipality and shall prescribe in the writ the time within which a return on the writ must be made and served on the relator or the relator's attorney.

(c) The municipality is not required to return the original papers acted on by it, but it is sufficient for the municipality to return certified or sworn copies of the papers or parts of the papers as may be called for by the writ.

(d) Appeal of the municipality's determination under this subchapter shall be conducted under the substantial evidence rule.

Added by Acts 2025, 89th Leg., R.S., Ch. 1007 (S.B. 1579), Sec. 1, eff. September 1, 2025.

Sec. 212.306. CIVIL ACTION FOR RECEIVERSHIP. (a) After a final determination that an undeveloped parcel of land is abandoned, unoccupied, and tax delinquent, the municipality shall bring a civil action to have the parcel placed in a receivership. On a final determination that an undeveloped parcel of land is abandoned, unoccupied, and tax delinquent as provided by this subchapter, an owner's or lienholder's rights and legal interests are extinguished, subject to the provisions of this subchapter regarding any net proceeds resulting from the disposition of the property, and transferred to the receiver.

(b) The only allegations required to be pleaded in an action for receivership brought under this section are:

(1) the identification of the applicable parcel of land;

(2) the relationship of the defendant to the real property;

(3) the notice of the administrative hearing given to the owner; and

(4) the administrative determination that the parcel of land is abandoned, unoccupied, and tax delinquent.

(c) The court may appoint as receiver any person with a demonstrated record of knowledge of the problems created by undeveloped parcels of land described by this section. In selecting a receiver, the court may also take into consideration whether the

person owns property in the affected area. The court may not appoint as a receiver the municipality, an official or employee of the municipality, a relative of an official or employee of the municipality within the third degree of consanguinity or affinity, or a person who may directly benefit from an administrative action taken as a receiver.

(d) In a civil action under this subchapter, the record owners and any lienholders of record of the land subject to the action shall be served with personal notice of the proceedings as provided by the Texas Rules of Civil Procedure. Service on the record owners or lienholders constitutes notice to all unrecorded owners or lienholders.

Added by Acts 2025, 89th Leg., R.S., Ch. 1007 (S.B. 1579), Sec. 1, eff. September 1, 2025.

Sec. 212.307. AUTHORITY AND DUTY OF RECEIVER. (a) Unless inconsistent with this chapter or other law, the rules of equity govern all matters relating to the appointment, powers, duties, and liabilities of a receiver and to the powers of a court regarding a receiver. A receiver appointed by the court may:

(1) take control of the parcel of land;

(2) make or have made any repairs or improvements to the parcel of land to make it developable;

(3) make provisions for the parcel of land to be subject to street, road, drainage, utility, and other infrastructure requirements;

(4) aggregate the parcel of land with other parcels that have been similarly determined to be abandoned, unoccupied, and tax delinquent;

(5) plat or replat the parcel of land;

(6) accept the grant or donation of any parcel of land within the affected area to carry out the purpose of this subchapter; and

(7) exercise all other authority that an owner of the parcel of land could have exercised, including the authority to sell the parcel.

(b) Before a person assumes the duties of a receiver, the person must be sworn to perform the duties faithfully.

(c) The appointed receiver is an officer of the court.

(d) If a receiver dies, resigns, or becomes incapacitated, the court shall appoint a receiver to succeed the former receiver.

(e) If the donation of a parcel of land to the receiver is not challenged before the first anniversary of the donation date, the donation is final and not revocable under any other legal proceeding.

(f) A parcel of land under the control of a receiver appointed under this subchapter may be redeemed by the record owner or the owner's agent during the 12 months following the appointment of the receiver by paying all current and delinquent ad valorem taxes owed and the proportional cost of notice and administrative fees, if applicable.

(g) All funds that come into the hands of the receiver shall be deposited in a place in this state directed by the court. The receiver's use of the funds in connection with the receiver's duties or authority under this subchapter shall be subject to the approval of the court. All net proceeds from the disposition of a parcel of land by the receiver shall be placed in trust and remain in trust for at least three years, unless claimed before the expiration of the trust period. The court must order additional notices to an owner or lienholder about the net proceeds as are practicable during the trust period and, on expiration of the trust period, any money remaining in the receivership shall escheat to the state. Funds escheated to the state under this subchapter are subject to disposition or recovery under Subchapters C and D, Chapter 71, Property Code.

(h) After the receiver has improved the parcel of land to the degree that the parcel is developable and meets all applicable standards, or before petitioning the court for termination of the receivership, the receiver shall file with the court:

(1) a summary and accounting of all costs and expenses incurred, which may, at the receiver's discretion, include a receivership fee of up to 15 percent of the costs and expenses incurred, unless the court, for good cause shown, authorizes a different limit;

(2) a statement describing the disposition of each parcel of land, including whether the parcel was aggregated with other parcels;

(3) a statement of all revenues collected by the receiver in connection with the use or disposition of the parcels of land; and

(4) to the extent required by the court, a description of

any undivided interest of an owner or lienholder, whether identified or not, in the net proceeds from the disposition of the property.

(i) The court must approve any sale of the property by the receiver.

(j) A receiver shall have a lien on the property under receivership for all of the receiver's unreimbursed costs and expenses and any receivership fee as detailed in the summary and accounting under Subsection (h)(1).

Added by Acts 2025, 89th Leg., R.S., Ch. 1007 (S.B. 1579), Sec. 1, eff. September 1, 2025.

Sec. 212.308. SALE OF PROPERTY. (a) A sale under this subchapter must be made by:

(1) public auction;

(2) sealed bid; or

(3) sealed proposal.

(b) Before a sale may take place under this subchapter, the receiver must publish notice of the proposed sale before the 60th day before the date the sale is to be held and again before the 30th day before the date the sale is to be held. The notice must be published in English and Spanish in a newspaper of general circulation in the municipality in which the real property is located. The notice must:

(1) clearly identify the property to be sold;

(2) specify the procedures and date for the public auction, sealed bid, or sealed proposal method of sale;

(3) state the minimum bid for the property, if any;

(4) state any specific financial terms of sale imposed by the receiver; and

(5) describe the restrictions, conditions, and limitations on the use of the property that the receiver has determined are appropriate, other than the restrictions, conditions, and limitations provided by other law.

(c) In addition to the notice required by Subsection (b), to maximize the price at which the property is sold and the number of bidders, the receiver shall exercise best efforts to provide notice of the proposed sale to those persons who may have the business expertise, financial capability, and interest in developing the property, including local, state, and national trade associations

whose members are development, real estate, or financial professionals.

(d) On the closing of a sale of property under this subchapter, fee simple title shall be vested in the purchaser.

(e) The receiver may reject any and all offers. If the receiver rejects all offers, the receiver may subsequently reoffer the same property for sale, reorganize the property and offer the property for sale, or combine all or part of the property with other property and offer the combined property for sale.

(f) If the procedures in this section are followed and a sale occurs, the sale price obtained for the property is conclusive as to the fair market value of the property at the time of the sale.

Added by Acts 2025, 89th Leg., R.S., Ch. 1007 (S.B. 1579), Sec. 1, eff. September 1, 2025.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 212.901. DEVELOPER REQUIRED TO PROVIDE SURETY. (a) To ensure that it will not incur liabilities, a municipality may require, before it gives approval of the plans for a development, that the owner of the development provide sufficient surety to guarantee that claims against the development will be satisfied if a default occurs.

(b) This section does not preclude a claimant from seeking recovery by other means.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 48(a), eff. Aug. 28, 1989.

Sec. 212.902. SCHOOL DISTRICT AND OPEN-ENROLLMENT CHARTER SCHOOL LAND DEVELOPMENT STANDARDS. (a) This section applies to an agreement between a school district or open-enrollment charter school and a municipality which has annexed territory for limited purposes.

(b) On request by a school district or open-enrollment charter school, a municipality shall enter an agreement with the board of trustees of the school district or the governing body of the open-enrollment charter school to establish review fees, review periods, and land development standards ordinances and to provide alternative water pollution control methodologies for school buildings constructed by the school district or open-enrollment charter school.

The agreement shall include a provision exempting the district or charter school from all land development ordinances in cases where the district or charter school is adding temporary classroom buildings on an existing school campus.

(c) If the municipality and the school district or open-enrollment charter school do not reach an agreement on or before the 120th day after the date on which the municipality receives the district's or charter school's request for an agreement, proposed agreements by the district or charter school and the municipality shall be submitted to an independent arbitrator appointed by the presiding district judge whose jurisdiction includes the district or charter school. The arbitrator shall, after a hearing at which both the district or charter school and the municipality make presentations on their proposed agreements, prepare an agreement resolving any differences between the proposals. The agreement prepared by the arbitrator will be final and binding upon both the district or charter school and the municipality. The cost of the arbitration proceeding shall be borne equally by the district or charter school and the municipality.

(d) A school district or open-enrollment charter school that requests an agreement under this section, at the time the district or charter school makes the request, shall send a copy of the request to the commissioner of education. At the end of the 120-day period, the requesting district or charter school shall report to the commissioner the status or result of negotiations with the municipality. A municipality may send a separate status report to the commissioner. The district or charter school shall send to the commissioner a copy of each agreement between the district or charter school and a municipality under this section.

(e) An agreement between a municipality and an open-enrollment charter school under Subsection (b) may require that:

(1) any revised land development standards may apply only while the property is used for purposes of the charter school; and

(2) any property in use subject to land development standards established only for an open-enrollment charter school must be brought into compliance with all development regulations applicable to non-school related commercial developments by the property owner after closure or relocation of the charter school.

(f) In this section:

(1) "Land development standards" includes impervious cover

limitations, building setbacks, floor to area ratios, building heights and coverage, water quality controls, landscaping, development setbacks, compatibility standards, traffic analyses, including traffic impact analyses, parking requirements, signage requirements, and driveway cuts, if applicable.

(2) "Open-enrollment charter school" means a school granted a charter under Subchapter C, D, or E, Chapter 12, Education Code.

(g) Nothing in this section shall be construed to limit the applicability of or waive fees for fire, safety, health, or building code ordinances of the municipality prior to or during construction of school buildings, nor shall any agreement waive any fee or modify any ordinance of a municipality for an administration, service, or athletic facility proposed for construction by a school district or open-enrollment charter school.

Added by Acts 1990, 71st Leg., 6th C.S., ch. 1, Sec. 3.18, eff. Sept. 1, 1990.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 699 (H.B. 1707), Sec. 2, eff. June 12, 2023.

Sec. 212.903. CONSTRUCTION AND RENOVATION WORK ON COUNTY-OWNED BUILDINGS OR FACILITIES IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of 250,000 or more.

(b) A municipality is not authorized to require a county to notify the municipality or obtain a building permit for any new construction or renovation work performed within the limits of the municipality by the county's personnel or by county personnel acting as general contractor on county-owned buildings or facilities. Such construction or renovation work shall be inspected by a registered professional engineer or architect licensed in this state in accordance with any other applicable law. A municipality may require a building permit for construction or renovation work performed on county-owned buildings or facilities by private general contractors.

(c) This section does not exempt a county from complying with a municipality's building code standards when performing construction or renovation work.

Added by Acts 1997, 75th Leg., ch. 271, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 368, Sec. 1, eff. Aug. 30, 1999.

Sec. 212.904. APPORTIONMENT OF MUNICIPAL INFRASTRUCTURE COSTS. (a) If a municipality requires, including under an agreement under Chapter 242, as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the municipality. The municipality's determination shall be completed within thirty days following the submission of the developer's application for determination under this subsection.

(b) A developer who disputes the determination made under Subsection (a) may appeal to the governing body of the municipality. At the appeal, the developer may present evidence and testimony under procedures adopted by the governing body. After hearing any testimony and reviewing the evidence, the governing body shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c) A developer may appeal the determination of the governing body to a county or district court of the county in which the development project is located within 30 days of the final determination by the governing body.

(d) A municipality may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e) A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.

(f) This section does not diminish the authority or modify the procedures specified by Chapter 395.

Added by Acts 2005, 79th Leg., Ch. 982 (H.B. 1835), Sec. 1, eff. June 18, 2005.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 635 (S.B. 1510), Sec. 1, eff. June 10, 2019.

Sec. 212.905. REGULATION OF TREE REMOVAL. (a) In this section:

(1) "Residential structure" means:

(A) a manufactured home as that term is defined by Section 1201.003, Occupations Code;

(B) a detached one-family or two-family dwelling, including the accessory structures of the dwelling;

(C) a multiple single-family dwelling that is not more than three stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling; or

(D) any other multifamily structure.

(2) "Tree mitigation fee" means a fee or charge imposed by a municipality in connection with the removal of a tree from private property.

(b) A municipality may not require a person to pay a tree mitigation fee for the removed tree if the tree:

(1) is located on a property that is an existing one-family or two-family dwelling that is the person's residence; and

(2) is less than 10 inches in diameter at the point on the trunk 4.5 feet above the ground.

(c) A municipality that imposes a tree mitigation fee for tree removal on a person's property must allow that person to apply for a credit for tree planting under this section to offset the amount of the fee.

(d) An application for a credit under Subsection (c) must be in the form and manner prescribed by the municipality. To qualify for a credit under this section, a tree must be:

(1) planted on property:

(A) for which the tree mitigation fee was assessed; or

(B) mutually agreed upon by the municipality and the person; and

(2) at least two inches in diameter at the point on the trunk 4.5 feet above ground.

(e) For purposes of Subsection (d)(1)(B), the municipality and the person may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the municipality.

(f) The amount of a credit provided to a person under this section must be applied in the same manner as the tree mitigation fee assessed against the person and:

(1) equal to the amount of the tree mitigation fee assessed against the person if the property is an existing one-family or two-family dwelling that is the person's residence;

(2) at least 50 percent of the amount of the tree mitigation fee assessed against the person if:

(A) the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and

(B) the person is developing, constructing, or renovating the property not for use as the person's residence; or

(3) at least 40 percent of the amount of the tree mitigation fee assessed against the person if:

(A) the property is not a residential structure; or

(B) the person is constructing or intends to construct a structure on the property that is not a residential structure.

(g) As long as the municipality meets the requirement to provide a person a credit under Subsection (c), this section does not affect the ability of or require a municipality to determine:

(1) the type of trees that must be planted to receive a credit under this section, except as provided by Subsection (d);

(2) the requirements for tree removal and corresponding tree mitigation fees, if applicable;

(3) the requirements for tree-planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity; or

(4) the amount of a tree mitigation fee.

(h) A municipality may not prohibit the removal of or impose a tree mitigation fee for the removal of a tree that:

(1) is diseased or dead; or

(2) poses an imminent or immediate threat to persons or property.

(i) This section does not apply to property within five miles of a federal military base in active use as of December 1, 2017.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 7 (H.B. 7), Sec. 1, eff. December 1, 2017.

Sec. 212.906. CERTAIN VALUE-BASED FEES AND DISCLOSURE OF CERTAIN INFORMATION PROHIBITED. (a) This section applies only to an application, review, engineering, inspection, acceptance, administrative, or other fee imposed by a municipality related to the acceptance, review, or processing of engineering or construction plans or for the inspection of improvements for construction of a subdivision or lot or a related improvement associated with or required in conjunction with that construction.

(b) A municipality may not consider the cost of constructing or improving the public infrastructure for a subdivision, lot, or related property development in determining the amount of a fee subject to this section. The municipality shall determine the fee by considering the municipality's actual cost to, as applicable, review and process the engineering or construction plan or to inspect the public infrastructure improvement.

(c) In determining the municipality's actual cost for reviewing and processing an engineering or construction plan or inspecting a public infrastructure improvement under Subsection (b), a municipality may consider:

(1) the fee that would be charged by a qualified, independent third-party entity for those services;

(2) the hourly rate for the estimated actual direct time of the municipality's employees performing those services; or

(3) the actual costs assessed to the municipality by a third-party entity that provides those services to the municipality.

(d) A municipality may not require the disclosure of information related to the value of or cost of constructing or improving a residential dwelling or the public infrastructure improvements for a subdivision, lot, or related property development as a condition of obtaining approval for subdivision construction or for the acceptance of those public infrastructure improvements except as required by the Federal Emergency Management Agency for participation in the National Flood Insurance Program.

(e) A municipality that imposes a fee for reviewing or processing an engineering or construction plan or inspecting a public infrastructure improvement shall annually publish the fee and the hourly rate and estimated direct time incurred by municipal employees for a fee calculated under Subsection (c)(2). The municipality must publish the information:

(1) on the municipality's Internet website; or

(2) if the municipality does not maintain an Internet website, in a newspaper of general circulation in the county in which the municipality is primarily located.

Added by Acts 2023, 88th Leg., R.S., Ch. 534 (H.B. 3492), Sec. 1, eff. September 1, 2023.

CHAPTER 213. MUNICIPAL COMPREHENSIVE PLANS

Sec. 213.001. PURPOSE. The powers granted under this chapter are for the purpose of promoting sound development of municipalities and promoting public health, safety, and welfare.

Added by Acts 1997, 75th Leg., ch. 459, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 219.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(2), eff. Sept. 1, 2001.

Sec. 213.002. COMPREHENSIVE PLAN. (a) The governing body of a municipality may adopt a comprehensive plan for the long-range development of the municipality. A municipality may define the content and design of a comprehensive plan.

(b) A comprehensive plan may:

(1) include but is not limited to provisions on land use, transportation, and public facilities;

(2) consist of a single plan or a coordinated set of plans organized by subject and geographic area; and

(3) be used to coordinate and guide the establishment of development regulations.

(c) A municipality may define, in its charter or by ordinance, the relationship between a comprehensive plan and development regulations and may provide standards for determining the consistency required between a plan and development regulations.

(d) Land use assumptions adopted in a manner that complies with Subchapter C, Chapter 395, may be incorporated in a comprehensive plan.

Added by Acts 1997, 75th Leg., ch. 459, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 219.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(2), eff. Sept. 1, 2001.

Sec. 213.003. ADOPTION OR AMENDMENT OF COMPREHENSIVE PLAN. (a) A comprehensive plan may be adopted or amended by ordinance following:

(1) a hearing at which the public is given the opportunity to give testimony and present written evidence; and

(2) review by the municipality's planning commission or department, if one exists.

(b) A municipality may establish, in its charter or by ordinance, procedures for adopting and amending a comprehensive plan.

Added by Acts 1997, 75th Leg., ch. 459, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.07, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(2), eff. Sept. 1, 2001.

Sec. 213.004. EFFECT ON OTHER MUNICIPAL PLANS. This chapter does not limit the ability of a municipality to prepare other plans, policies, or strategies as required.

Added by Acts 1997, 75th Leg., ch. 459, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 219.004 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(2), eff. Sept. 1, 2001.

Sec. 213.005. NOTATION ON MAP OF COMPREHENSIVE PLAN. A map of a comprehensive plan illustrating future land use shall contain the following clearly visible statement: "A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries."

Added by Acts 1997, 75th Leg., ch. 459, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 219.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(2), eff. Sept. 1, 2001.

CHAPTER 214. MUNICIPAL REGULATION OF HOUSING AND OTHER STRUCTURES

SUBCHAPTER A. DANGEROUS STRUCTURES

Sec. 214.001. AUTHORITY REGARDING SUBSTANDARD BUILDING. (a) A municipality may, by ordinance, require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building

that is:

(1) dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;

(2) regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

(3) boarded up, fenced, or otherwise secured in any manner if:

(A) the building constitutes a danger to the public even though secured from entry; or

(B) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by Subdivision (2).

(b) The ordinance must:

(1) establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction;

(2) provide for giving proper notice, subject to Subsection (b-1), to the owner of a building; and

(3) provide for a public hearing to determine whether a building complies with the standards set out in the ordinance.

(b-1) For a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million, notice to a unit owner in accordance with Section 82.118, Property Code, and notice to the registered agent for the unit owners' association in the manner provided for service of process to a condominium association under Section 54.035(a-1) satisfy the notice requirements under this section.

(c) A notice of a hearing sent to an owner, lienholder, or mortgagee under this section must include a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(d) After the public hearing, if a building is found in violation of standards set out in the ordinance, the municipality may order that the building be vacated, secured, repaired, removed, or

demolished by the owner within a reasonable time as provided by this section. The municipality also may order that the occupants be relocated within a reasonable time. If the owner does not take the ordered action within the allotted time, the municipality shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. The municipality shall personally deliver, send by certified mail with return receipt requested, or deliver by the United States Postal Service using signature confirmation service, to each identified mortgagee and lienholder a notice containing:

(1) an identification, which is not required to be a legal description, of the building and the property on which it is located;

(2) a description of the violation of municipal standards that is present at the building; and

(3) a statement that the municipality will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

(e) As an alternative to the procedure prescribed by Subsection (d), the municipality may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and may give them a notice of and an opportunity to comment at the hearing. In addition, the municipality may file notice of the hearing in the Official Public Records of Real Property in the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined, a legal description of the affected property, and a description of the hearing. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice. If the municipality operates under this subsection, the order issued by the municipality may specify a reasonable time as provided by this section for the building to be vacated, secured, repaired, removed, or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time as provided by this section for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner. Under this subsection, the municipality is not

required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

(f) Within 10 days after the date that the order is issued, the municipality shall:

(1) file a copy of the order in the office of the municipal secretary or clerk, if the municipality has a population of 1.9 million or less; and

(2) publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:

(A) the street address or legal description of the property;

(B) the date of the hearing;

(C) a brief statement indicating the results of the order; and

(D) instructions stating where a complete copy of the order may be obtained.

(g) After the hearing, the municipality shall promptly mail by certified mail with return receipt requested, deliver by the United States Postal Service using signature confirmation service, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.

(h) In conducting a hearing authorized under this section, the municipality shall require the owner, lienholder, or mortgagee of the building to within 30 days:

(1) secure the building from unauthorized entry; or

(2) repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(i) If the municipality allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the municipality shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the hearing official.

(j) A municipality may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the

building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

(1) submits a detailed plan and time schedule for the work at the hearing; and

(2) establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

(k) If the municipality allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the municipality shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the municipality to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the hearing official or the hearing official's designee to demonstrate compliance with the time schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceeds $100,000 in total value, the municipality may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the municipality may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the municipality. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the municipality issues the order.

(l) In a public hearing to determine whether a building complies with the standards set out in an ordinance adopted under this section, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(m) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the municipality may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of a municipality to collect on a bond or other financial guaranty that may be required by Subsection

(k).

(n) If a municipality incurs expenses under Subsection (m), the municipality may assess the expenses on, and the municipality has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the municipality for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the municipality, and the balance due.

(o) If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by Subsection (d), (e), or (g), the lien is a privileged lien subordinate only to tax liens.

(p) A hearing under this section may be held by a civil municipal court.

(q) A municipality satisfies the requirements of this section to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the municipality searches the following records:

(1) county real property records of the county in which the building is located;

(2) appraisal district records of the appraisal district in which the building is located;

(3) records of the secretary of state;

(4) assumed name records of the county in which the building is located;

(5) tax records of the municipality; and

(6) utility records of the municipality.

(r) When a municipality mails a notice in accordance with this section to a property owner, lienholder, mortgagee, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected,

and the notice is considered delivered.

(s) A court shall expedite any proceeding, including an appeal in accordance with Section 214.0012, related to a substandard building determination under this section by a municipality with a population of 500,000 or more.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(j), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 743, Sec. 1, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 836, Sec. 10, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 359, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 362, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 357, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 413, Sec. 10, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 701, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 370 (S.B. 352), Sec. 3, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1323 (H.B. 3128), Sec. 5, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1273 (H.B. 36), Sec. 3, eff. June 14, 2019.

Sec. 214.0011. ADDITIONAL AUTHORITY TO SECURE SUBSTANDARD BUILDING. (a) A municipality by ordinance may establish minimum standards for the use and occupancy of buildings in the municipality regardless of the date of their construction and may adopt other ordinances as necessary to carry out this section.

(b) The municipality may secure a building the municipality determines:

(1) violates the minimum standards; and

(2) is unoccupied or is occupied only by persons who do not have a right of possession to the building.

(c) Before the 11th day after the date the building is secured, the municipality shall give notice to the owner by:

(1) personally serving the owner with written notice;

(2) depositing the notice in the United States mail addressed to the owner at the owner's post office address;

(3) publishing the notice at least twice within a 10-day

period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office address is unknown; or

(4) posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.

(d) The notice must contain:

(1) an identification, which is not required to be a legal description, of the building and the property on which it is located;

(2) a description of the violation of the municipal standards that is present at the building;

(3) a statement that the municipality will secure or has secured, as the case may be, the building; and

(4) an explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.

(e) The municipality shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the municipality's securing of the building if, within 30 days after the date the municipality secures the building, the owner files with the municipality a written request for the hearing. The municipality shall conduct the hearing within 20 days after the date the request is filed.

(f) A municipality has the same authority to assess expenses under this section as it has to assess expenses under Section 214.001(n). A lien is created under this section in the same manner that a lien is created under Section 214.001(n) and is subject to the same conditions as a lien created under that section.

(g) The authority granted by this section is in addition to that granted by Section 214.001.

Added by Acts 1991, 72nd Leg., ch. 13, Sec. 1, eff. April 2, 1991. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.104, eff. Sept. 1, 2001.

Sec. 214.00111. ADDITIONAL AUTHORITY TO PRESERVE SUBSTANDARD BUILDING AS HISTORIC PROPERTY. (a) This section applies only to a municipality that is designated as a certified local government by the state historic preservation officer as provided by 16 U.S.C.A.

Section 470 et seq.

(b) This section does not apply to an owner-occupied, single-family dwelling.

(c) Before a notice is sent or a hearing is conducted under Section 214.001, the historic preservation board of a municipality may review a building described by Section 214.001(a) to determine whether the building can be rehabilitated and designated:

(1) on the National Register of Historic Places;

(2) as a Recorded Texas Historic Landmark; or

(3) as historic property through a municipal historic designation.

(d) If a municipal historic preservation board reviews a building, the board shall submit a written report to the municipality indicating the results of the review conducted under this section before a public hearing is conducted under Section 214.001.

(e) If the municipal historic preservation board report determines that the building may not be rehabilitated and designated as historic property, the municipality may proceed as provided by Section 214.001.

(f) If the municipal historic preservation board report determines that the building may be rehabilitated and designated as historic property, the municipality may not permit the building to be demolished for at least 90 days after the date the report is submitted. During this 90-day period, the municipality shall notify the owner and attempt to identify a feasible alternative use for the building or locate an alternative purchaser to rehabilitate and maintain the building. If the municipality is not able to locate the owner or if the owner does not respond within the 90-day period, the municipality may appoint a receiver as provided by Section 214.003.

(g) The municipality may require the building to be demolished as provided by Section 214.001 after the expiration of the 90-day period if the municipality is not able to:

(1) identify a feasible alternative use for the building;

(2) locate an alternative purchaser to rehabilitate and maintain the building; or

(3) appoint a receiver for the building as provided by Section 214.003.

(h) An owner of a building described by Section 214.001(a) is not liable for penalties related to the building that accrue during the 90-day period provided for disposition of historic property under

this section.

Added by Acts 1995, 74th Leg., ch. 158, Sec. 1, eff. Aug. 28, 1995.

Sec. 214.0012. JUDICIAL REVIEW. (a) Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of a municipality issued under Section 214.001 may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the municipality is personally delivered to them, mailed to them by first class mail with certified return receipt requested, or delivered to them by the United States Postal Service using signature confirmation service, or such decision shall become final as to each of them upon the expiration of each such 30 calendar day period.

(b) On the filing of the petition, the court may issue a writ of certiorari directed to the municipality to review the order of the municipality and shall prescribe in the writ the time within which a return on the writ must be made, which must be longer than 10 days, and served on the relator or the relator's attorney.

(c) The municipality may not be required to return the original papers acted on by it, but it is sufficient for the municipality to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ.

(d) The return must concisely set forth other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(e) The issuance of the writ does not stay proceedings on the decision appealed from.

(f) Appeal in the district court shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.

(g) Costs may not be allowed against the municipality.

(h) If the decision of the municipality is affirmed or not substantially reversed but only modified, the district court shall allow to the municipality all attorney's fees and other costs and

expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners, lienholders, or mortgagees as well as all persons subject to the proceedings before the municipality.

(i) An appeal under this section for an action in which a municipality with a population of 500,000 or more is a party is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. The district court shall render its final order or judgment with the least possible delay.

Added by Acts 1993, 73rd Leg., ch. 836, Sec. 11, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 413, Sec. 12, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 370 (S.B. 352), Sec. 4, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1273 (H.B. 36), Sec. 4, eff. June 14, 2019.

Sec. 214.0015. ADDITIONAL AUTHORITY REGARDING SUBSTANDARD BUILDING. (a) This section applies only to a municipality that has adopted an ordinance under Section 214.001.

(b) In addition to the authority granted to the municipality by Section 214.001, after the expiration of the time allotted under Section 214.001(d) or (e) for the repair, removal, or demolition of a building, the municipality may:

(1) repair the building at the expense of the municipality and assess the expenses on the land on which the building stands or to which it is attached and may provide for that assessment, the mode and manner of giving notice, and the means of recovering the repair expenses; or

(2) assess a civil penalty against the property owner for failure to repair, remove, or demolish the building and provide for that assessment, the mode and manner of giving notice, and the means of recovering the assessment.

(c) The municipality may repair a building under Subsection (b) only to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential

building with 10 or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum housing standards.

(d) The municipality shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution, to secure the payment of the repair, removal, or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the municipality must file for record, in recordable form in the office of the county clerk of the county in which the land is located, a written notice of the imposition of the lien. The notice must contain a legal description of the land.

(e) Except as provided by Section 214.001, the municipality's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the municipality's lien attaches if the mortgage lien was filed for record in the office of the county clerk of the county in which the real property is located before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the municipality. The municipality's lien is superior to all other previously recorded judgment liens.

(f) Any civil penalty or other assessment imposed under this section accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full.

(g) The municipality's right to the assessment lien may not be transferred to third parties.

(h) In any judicial proceeding regarding enforcement of municipal rights under this section, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

(i) A lien acquired under this section by a municipality for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.

(j) The municipality by order may assess and recover a civil penalty against a property owner at the time of an administrative hearing on violations of an ordinance, in an amount not to exceed $1,000 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed $10 a day for each violation, if the municipality proves:

(1) the property owner was notified of the requirements of the ordinance and the owner's need to comply with the requirements; and

(2) after notification, the property owner committed an act in violation of the ordinance or failed to take an action necessary for compliance with the ordinance.

(k) An assessment of a civil penalty under Subsection (j) is final and binding and constitutes prima facie evidence of the penalty in any suit brought by a municipality in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty.

(l) To enforce a civil penalty under this subchapter, the clerk or secretary of the municipality must file with the district clerk of the county in which the municipality is located a certified copy of an order issued under Subsection (j) stating the amount and duration of the penalty. No other proof is required for a district court to enter a final judgment on the penalty.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 49(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 743, Sec. 2, 3, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 359, Sec. 2, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 12.105, eff. Sept. 1, 2001.

Sec. 214.002. REQUIRING REPAIR, REMOVAL, OR DEMOLITION OF BUILDING OR OTHER STRUCTURE. (a) If the governing body of a municipality finds that a building, bulkhead or other method of shoreline protection, fence, shed, awning, or other structure, or part of a structure, is likely to endanger persons or property, the governing body may:

(1) order the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the part of the structure, within a specified time; or

(2) repair, remove, or demolish the structure, or the part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(b) The governing body shall provide by ordinance for:

(1) the assessment of repair, removal, or demolition expenses incurred under Subsection (a)(2);

(2) a method of giving notice of the assessment; and

(3) a method of recovering the expenses.

(c) The governing body may punish by a fine, confinement in jail, or both a person who does not comply with an order issued under Subsection (a)(1).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 743, Sec. 4, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 219, Sec. 1, eff. Aug. 30, 1993.

Sec. 214.003. RECEIVER. (a) A home-rule municipality may bring an action in district court against an owner of property that is not in substantial compliance with:

(1) the municipal ordinances regarding:

(A) fire protection;

(B) structural integrity;

(C) zoning; or

(D) disposal of refuse; or

(2) a municipal ordinance described by Section 54.012(1), (2), (5), (6), (7), or (9).

(b) Except as provided by Subsections (b-1) and (c), the court may appoint as a receiver for the property a nonprofit organization or an individual with a demonstrated record of rehabilitating properties if the court finds that:

(1) the structures on the property are in violation of the standards set forth in Section 214.001(b) and an ordinance described by Subsection (a);

(2) notice of violation was given to the record owner of the property; and

(3) a public hearing as required by Section 214.001(b) has been conducted.

(b-1) This subsection applies only to a municipality wholly or partly located in a county that is located along the international border and contains a municipality with a population of 500,000 or more. The court may appoint as a receiver under Subsection (b) an individual without a demonstrated record of rehabilitating properties if the municipality demonstrates that:

(1) no individual with a demonstrated record of rehabilitating properties is available; and

(2) the individual being appointed is competent and able to fulfill the duties of a receiver.

(c) A receiver appointed under Subsection (b) may act as a receiver for any property, including historic property subject to Section 214.00111.

(d) For the purposes of this section, if the record owner does not appear at the hearing required by Section 214.001(b), the hearing shall be conducted as if the owner had personally appeared.

(e) In the action, the record owners and any lienholders of record of the property shall be served with personal notice of the proceedings or, if not available after due diligence, may be served by publication. Actual service or service by publication on the record owners or lienholders constitutes notice to all unrecorded owners or lienholders.

(f) The court may issue, on a showing of imminent risk of injury to any person occupying the property or a person in the community, any mandatory or prohibitory temporary restraining orders and temporary injunctions necessary to protect the public health and safety.

(g) A receiver appointed by the court may:

(1) take control of the property;

(2) collect rents due on the property;

(3) make or have made any repairs necessary to bring the property into compliance with:

(A) minimum standards in local ordinances; or

(B) guidelines for rehabilitating historic properties established by the secretary of the interior under 16 U.S.C.A. Section 470 et seq. or the municipal historic preservation board, if the property is considered historic property under Section 214.00111;

(4) make payments necessary for the maintenance or restoration of utilities to the properties;

(5) purchase materials necessary to accomplish repairs;

(6) renew existing rental contracts and leases;

(7) enter into new rental contracts and leases;

(8) affirm, renew, or enter into a new contract providing for insurance coverage on the property; and

(9) exercise all other authority that an owner of the property would have except for the authority to sell the property.

(h) On the completion of the restoration of the property to the minimum code standards of the municipality or guidelines for rehabilitating historic property, or before petitioning a court for termination of the receivership under Subsection (l):

(1) the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs, including reasonable costs for labor and supervision, all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses;

(2) if the income exceeds the total of the cost and expense of rehabilitation and any receivership fee, the rehabilitated property shall be restored to the owners and any net income shall be returned to the owners; and

(3) if the total of the costs and expenses and any receivership fee exceeds the income received during the receivership, the receiver may maintain control of the property until the time all rehabilitation and maintenance costs and any receivership fee are recovered, or until the receivership is terminated.

(h-1) A receiver shall have a lien on the property under receivership for all of the receiver's unreimbursed costs and expenses and any receivership fee.

(i) Any record lienholder may, after initiation of an action by a municipality:

(1) intervene in the action; and

(2) request appointment as a receiver:

(A) under the same conditions as the nonprofit organization or individual; and

(B) on a demonstration to the court of an ability and willingness to rehabilitate the property.

(j) For the purposes of this section, the interests and rights of an unrecorded lienholder or unrecorded property owner are, in all respects, inferior to the rights of a duly appointed receiver.

(k) The court may not appoint a receiver for any property that is an owner-occupied, single-family residence.

(l) A receiver appointed by a district court under this section, or the home-rule municipality that filed the action under which the receiver was appointed, may petition the court to terminate the receivership and order the sale of the property after the receiver has been in control of the property for more than one year, if an owner has been served with notice but has failed to assume

control or repay all rehabilitation and maintenance costs and any receivership fee of the receiver.

(m) In the action, the record owners and any lienholders of record of the property shall be served with personal notice of the proceedings or, if not found after due diligence, may be served by publication. Actual service or service by publication on all record owners and lienholders of record constitutes notice to all unrecorded owners and lienholders.

(n) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property for more than one year and an owner has failed to repay all rehabilitation and maintenance costs and any receivership fee of the receiver; and

(3) no lienholder of record has intervened in the action and offered to repay the costs and any receivership fee of the receiver and assume control of the property.

(o) The court shall order the sale to be conducted by the petitioner in the same manner that a sale is conducted under Chapter 51, Property Code. If the record owners and lienholders are identified, notice of the date and time of the sale must be sent in the same manner as provided by Chapter 51, Property Code. If the owner cannot be located after due diligence, the owner may be served notice by publication. The receiver may bid on the property at the sale and may use a lien granted under Subsection (h-1) as credit toward the purchase. The petitioner shall make a report of the sale to the court.

(p) The court shall confirm the sale and order a distribution of the proceeds of the sale in the following order:

(1) court costs;

(2) costs and expenses of the receiver, and any lien held by the receiver; and

(3) other valid liens.

(q) Any remaining sums must be paid to the owner. If the owner is not identified or cannot be located, the court shall order the remaining sums to be deposited in an interest-bearing account with the district clerk's office in the district in which the action is pending, and the clerk shall hold the funds as provided by other law.

(r) After the proceeds are distributed, the court shall award fee title to the purchaser subject to any recorded bona fide liens that were not paid by the proceeds of the sale.

Added by Acts 1989, 71st Leg., ch. 389, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 49, Sec. 1, eff. April 29, 1991; Acts 1995, 74th Leg., ch. 158, Sec. 2, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 12.106, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 29, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 16.004, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1054 (S.B. 173), Sec. 2, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 69 (S.B. 254), Sec. 1, eff. May 20, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 142, eff. September 1, 2023.

Sec. 214.0031. ADDITIONAL AUTHORITY TO APPOINT RECEIVER FOR HAZARDOUS PROPERTIES. (a) In this section:

(1) "Eligible nonprofit housing organization" means a nonprofit housing organization that is certified by a home-rule municipality to bring an action under this section.

(2) "Multifamily residential property" means any residential dwelling complex consisting of four or more units.

(b) A home-rule municipality may annually certify one or more nonprofit housing organizations to bring an action under this section after making the following findings:

(1) the nonprofit housing organization has a record of community involvement; and

(2) the certification will further the home-rule municipality's goal to rehabilitate hazardous properties.

(c) A home-rule municipality or an eligible nonprofit housing organization may bring an action under this section in district court against an owner of property that is not in substantial compliance with one or more municipal ordinances regarding:

(1) the prevention of substantial risk of injury to any

person; or

(2) the prevention of an adverse health impact to any person.

(d) A municipality that grants authority to an eligible nonprofit housing organization to initiate an action under this section has standing to intervene in the proceedings at any time as a matter of right.

(e) The court may appoint a receiver if the court finds that:

(1) the property is in violation of one or more ordinances of the municipality described by Subsection (c);

(2) the condition of the property constitutes a serious and imminent public health or safety hazard; and

(3) the property is not an owner-occupied, single-family residence.

(f) The following are eligible to serve as court-appointed receivers:

(1) an entity with, as determined by the court, sufficient capacity and experience rehabilitating properties; and

(2) an individual with, as determined by the court, sufficient resources and experience rehabilitating properties.

(g) Notwithstanding Subsection (f), an entity is ineligible to serve as a receiver for a multifamily residential property if the nonprofit housing organization that brought the action under this section has an ownership interest or a right to income in the entity.

(h) The home-rule municipality or eligible nonprofit housing organization must send by certified mail notice of any ordinance violation alleged to exist on the property on or before the 30th day before the date an action is filed under this section to:

(1) the physical address of the property; and

(2) the address as indicated on the most recently approved municipal tax roll for the property owner or the property owner's agent.

(i) In an action under this section, each record owner and each lienholder of record of the property shall be served with notice of the proceedings or, if not available after due diligence, may be served by alternative means, including publication, as prescribed by the Texas Rules of Civil Procedure. Actual service or service by publication on a record owner or lienholder constitutes notice to each unrecorded owner or lienholder.

(j) On a showing of imminent risk of injury to a person

occupying the property or present in the community, the court may issue a mandatory or prohibitory temporary restraining order or temporary injunction as necessary to protect the public health or safety.

(k) Unless inconsistent with this section or other law, the rules of equity govern all matters relating to a court action under this section.

(l) Subject to control of the court, a court-appointed receiver has all powers necessary and customary to the powers of a receiver under the laws of equity and may:

(1) take possession and control of the property;

(2) operate and manage the property;

(3) establish and collect rents and income on the property;

(4) lease the property;

(5) make any repairs and improvements necessary to bring the property into compliance with local codes and ordinances and state laws, including:

(A) performing and entering into contracts for the performance of work and the furnishing of materials for repairs and improvements; and

(B) entering into loan and grant agreements for repairs and improvements to the property;

(6) pay expenses, including paying for utilities and paying taxes and assessments, insurance premiums, and reasonable compensation to a property management agent;

(7) enter into contracts for operating and maintaining the property;

(8) exercise all other authority of an owner of the property other than the authority to sell the property unless authorized by the court under Subsection (n); and

(9) perform other acts regarding the property as authorized by the court.

(m) A court-appointed receiver may demolish a single-family structure on the property under this section on authorization by the court and only if the court finds:

(1) it is not economically feasible to bring the structure into compliance with local codes and ordinances and state laws; and

(2) the structure is:

(A) unfit for human habitation or is a hazard to the public health or safety;

(B) regardless of its structural condition:

(i) unoccupied by its owners or lessees or other invitees; and

(ii) unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

(C) boarded, fenced, or otherwise secured, but:

(i) the structure constitutes a danger to the public even though secured from entry; or

(ii) the means used to secure the structure are inadequate to prevent unauthorized entry or use of the structure in the manner described by Paragraph (B)(ii).

(n) On demolition of the structure, the court may authorize the receiver to sell the property to an individual or organization that will bring the property into productive use.

(o) On completing the repairs or demolishing the structure or before petitioning a court for termination of the receivership, the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs or demolition, including reasonable costs for labor and supervision, all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses. If the property was sold under Subsection (n) and the revenue exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, any net income shall be returned to the owner. If the property is not sold and the income produced exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, the rehabilitated property shall be restored to the owner and any net income shall be returned to the owner. If the total of the costs and expenses incurred by the receiver plus any receivership fee exceeds the income produced during the receivership, the receiver may maintain control of the property until all rehabilitation and maintenance costs plus any receivership fee are recovered or until the receivership is terminated.

(p) A receiver shall have a lien on the property for all of the receiver's unreimbursed costs and expenses, plus any receivership fee.

(q) Any lienholder of record may, after initiation of an action under this section:

(1) intervene in the action; and

(2) request appointment as a receiver under this section if the lienholder demonstrates to the court an ability and willingness to rehabilitate the property.

(r) A receiver appointed under this section or the home-rule municipality or eligible nonprofit housing organization that filed the action under which the receiver was appointed may petition the court to terminate the receivership and order the sale of the property if an owner has been served with notice but has failed to repay all of the receiver's outstanding costs and expenses plus any receivership fee on or before the 180th day after the date the notice was served.

(s) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property and the owner has failed to repay all the receiver's outstanding costs and expenses of rehabilitation plus any receivership fee within the period prescribed by Subsection (r); and

(3) no lienholder of record has intervened in the action and tendered the receiver's costs and expenses, plus any receivership fee, and assumed control of the property.

(t) The court may order the property sold:

(1) to a land bank or other party as the court may direct, excluding, for multifamily residential properties, an eligible nonprofit housing organization that initiated the action under this section; or

(2) at public auction.

(u) The receiver, if an entity not excluded under Subsection (t), may bid on the property at the sale described by Subsection (t)(2) and may use a lien granted under Subsection (p) as credit toward the purchase.

(v) The court shall confirm a sale under this section and order a distribution of the proceeds of the sale in the following order:

(1) court costs;

(2) costs and expenses, plus a receivership fee, and any lien held by the receiver; and

(3) other valid liens.

(w) Any remaining amount shall be paid to the owner. If the

owner cannot be identified or located, the court shall order the remaining amount to be deposited in an interest-bearing account with the district clerk's office in the district court in which the action is pending. The district clerk shall hold the funds as provided by other law.

(x) After the proceeds are distributed, the court shall award fee title to the purchaser. If the proceeds of the sale are insufficient to pay all liens, claims, and encumbrances on the property, the court shall extinguish all unpaid liens, claims, and encumbrances on the property and award title to the purchaser free and clear.

(y) This section does not foreclose any right or remedy that may be available under Section 214.003, other state law, or the laws of equity.

Added by Acts 2009, 81st Leg., R.S., Ch. 1414 (S.B. 1449), Sec. 1, eff. September 1, 2009.

Sec. 214.004. SEIZURE AND SALE OF PROPERTY TO RECOVER EXPENSES. A Type A general-law municipality or home-rule municipality may foreclose a lien on property under this subchapter:

(1) in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code; or

(2) in a judicial proceeding, if:

(A) a building or other structure on the property has been demolished;

(B) a lien for the cost of the demolition of the building or other structure on the property has been created and that cost has not been paid more than 180 days after the date the lien was filed; and

(C) ad valorem taxes are delinquent on all or part of the property.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 5, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 470, Sec. 1, eff. May 30, 1997.

Sec. 214.005. PROPERTY BID OFF TO MUNICIPALITY. A municipality may adopt an ordinance under Section 214.001(a) that applies to property that has been bid off to the municipality under Section

34.01(j), Tax Code.

Added by Acts 2001, 77th Leg., ch. 413, Sec. 11, eff. Sept. 1, 2001.

SUBCHAPTER B. PLUMBING AND SEWERS

Sec. 214.011. PLUMBING INSPECTOR. (a) If a municipality does not have a special charter that provides for an inspector of plumbing, the governing body of the municipality may appoint an inspector of plumbing for a term fixed by the governing body.

(b) The same individual may serve as plumbing inspector and municipal engineer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(k), eff. Aug. 28, 1989.

Sec. 214.012. SEWERS AND PLUMBING. A municipality that has underground sewers or cesspools shall regulate by ordinance:

(1) the tapping of the sewers and cesspools; and

(2) house draining and plumbing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 214.013. SEWER CONNECTIONS. (a) A municipality may:

(1) provide for a sanitary sewer system; and

(2) require property owners to connect to the sewer system.

(b) If an owner does not connect to the sewer system, the municipality may:

(1) fix a lien against the owner's property;

(2) charge the cost of the connection to the owner as a personal liability; and

(3) impose a penalty on the owner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 51, Sec. 1, eff. Aug. 30, 1993.

Sec. 214.014. DRAINS, SINKS, AND PRIVIES. (a) The governing body of a Type A general-law municipality may, by resolution or

ordinance, order the owner of a private drain, sink, or privy to fill up, clean, drain, alter, relay, repair, or improve the drain, sink, or privy.

(b) If the order cannot be served on a person in the municipality, the municipality may have the work done on behalf of the owner. The municipality may fix a lien on the owner's property for expenses incurred in having the work done. The lien is created when the mayor of the municipality files and records a memorandum, under the seal of the municipality, with the clerk of the district court.

(c) The municipality may enforce the lien and may obtain in any court having jurisdiction a judgment against the owner for the amount of the expenses.

(d) The governing body may punish by a fine a person who does not comply with an order adopted under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 214.015. SEIZURE AND SALE OF PROPERTY TO RECOVER EXPENSES. A home-rule municipality or Type A general-law municipality may foreclose a lien on property under this subchapter in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 6, eff. Aug. 28, 1995.

SUBCHAPTER C. SWIMMING POOLS AND SPAS

Sec. 214.101. AUTHORITY REGARDING SWIMMING POOL ENCLOSURES. (a) A municipality may by ordinance establish minimum standards for swimming pool fences and enclosures and may adopt other ordinances as necessary to carry out this subchapter. A municipal ordinance containing standards for a pool yard enclosure as defined by Chapter 757, Health and Safety Code, as added by Section 2, Chapter 517, Acts of the 73rd Legislature, 1993, must contain the same standards for that enclosure as are required or permitted by that chapter of the Health and Safety Code.

(b) A municipality that adopts an ordinance under this subchapter may repair, replace, secure, or otherwise remedy an enclosure or fence that is damaged, deteriorated, substandard,

dilapidated, or otherwise in a state that poses a hazard to the public health, safety, and welfare.

(c) A municipality may require the owner of the property on which the swimming pool or enclosure or fence is situated, after notice and hearing as provided in Sections 214.001(d) and (e), to repair, replace, secure, or otherwise remedy an enclosure or fence of a swimming pool that the municipality or an appropriate municipal official, agent, or employee determines violates the minimum standards adopted under this subchapter.

(d) If the enclosure or fence is on unoccupied property or is on property occupied only by persons who do not have a right of possession to the property, the municipality shall give notice to the owner, in accordance with the procedures set out in Sections 214.0011(c) and (d), of the municipality's action to repair, replace, secure, or otherwise remedy an enclosure or fence of a swimming pool.

(e) If a municipality incurs expenses under this subchapter, the municipality may assess the expenses on, and the municipality has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the swimming pool or the enclosure or fence is situated. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the municipality for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded in the office of the county clerk in the county in which the property is situated. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the swimming pool or the enclosure or fence is situated, the amount of expenses incurred by the municipality, and the balance due. The lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property to which the municipality's lien attaches.

(f) An ordinance adopted under this subchapter may provide for a penalty, not to exceed $1,000, for a violation of the ordinance. The ordinance may provide that each day a violation occurs constitutes a separate offense.

(g) A municipal official, agent, or employee, acting under the authority granted by this subchapter or any ordinance adopted under this subchapter, may enter any unoccupied premises at a reasonable

time to inspect, investigate, or enforce the powers granted under this subchapter or any ordinance adopted pursuant to this subchapter. After providing a minimum of 24 hours notice to the occupant, a municipal official, agent, or employee, acting under the authority granted by this subchapter or any ordinance adopted under this subchapter, may enter any occupied premises to inspect, investigate, or enforce the powers granted under this subchapter or any ordinance adopted pursuant to this subchapter. A municipality and its officials, agents, or employees shall be immune from liability for any acts or omissions not knowingly done that are associated with actions taken in an effort to eliminate the dangerous conditions posed by an enclosure or fence that is damaged, deteriorated, substandard, dilapidated, or otherwise in a state that poses a hazard to the public health, safety, and welfare and for any previous or subsequent conditions on the property.

(h) The authority granted by this subchapter is in addition to that granted by any other law.

Added by Acts 1993, 73rd Leg., ch. 517, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 577, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 12.107, eff. Sept. 1, 2001.

Sec. 214.102. SEIZURE AND SALE OF PROPERTY TO RECOVER EXPENSES. A municipality may foreclose a lien on property under this subchapter in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 7, eff. Aug. 28, 1995.

Sec. 214.103. INTERNATIONAL SWIMMING POOL AND SPA CODE. (a) In this section, "International Swimming Pool and Spa Code" means the International Swimming Pool and Spa Code promulgated by the International Code Council.

(b) To protect the public health, safety, and welfare, the International Swimming Pool and Spa Code, as it existed on May 1, 2019, is adopted as the municipal swimming pool and spa code in this state. A municipality may adopt a more recent version of the International Swimming Pool and Spa Code to apply in the municipality.

(b-1) To the extent a provision of a code adopted by a municipality under Subsection (b) conflicts with a law of this state or a regulation on pool operation and management, water quality, safety standards unrelated to design and construction, signage, or enclosures, the law or regulation controls.

(c) The International Swimming Pool and Spa Code applies to all construction, alteration, remodeling, enlargement, and repair of swimming pools and spas in a municipality that elects to regulate pools or spas, including under Section 214.101.

(d) A municipality may establish procedures for:

(1) the adoption of local amendments to the International Swimming Pool and Spa Code; and

(2) the administration and enforcement of the International Swimming Pool and Spa Code.

(e) A municipality may review and adopt amendments made by the International Code Council to the International Swimming Pool and Spa Code after May 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 1145 (H.B. 2858), Sec. 2, eff. September 1, 2020.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1013 (H.B. 2205), Sec. 2, eff. September 1, 2021.

SUBCHAPTER D. BUILDING LINES

Sec. 214.131. DEFINITIONS. In this subchapter:

(1) "Street" means a public highway, boulevard, parkway, square, or street, or a part or side of any of these.

(2) "Structure" means a building or other structure, or a part of a building or other structure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Sec. 213.001 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.132. BUILDING LINES AUTHORIZED. The governing body of a municipality may, by resolution or ordinance, establish a building line on a street in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.133. ACTIVITY PROHIBITED WITHIN BUILDING LINE. In the area between a street and a building line established under this subchapter for the street, the erection, re-erection, reconstruction, or substantial repair of a structure is prohibited.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.003 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.134. RESOLUTION OR ORDINANCE. (a) In adopting a resolution or ordinance that establishes a building line, a municipality must follow the same procedure that it is authorized by law to use to acquire land for the opening of streets.

(b) The resolution or ordinance must:

(1) describe the street affected and the location of the building line; and

(2) provide a period, not to exceed 25 years after the date on which the line is established, during which structures extending into the area between the street and the building line must be brought into conformance with the line.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.004 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.135. CONDEMNATION OF EASEMENTS AND INTERESTS; ASSESSMENTS. (a) A municipality must follow the same procedure that it is authorized by law to use to open streets when the municipality:

(1) institutes and conducts a condemnation proceeding to condemn an easement or interest necessary to establish a building line; or

(2) imposes and collects an assessment based on the benefits arising out of the establishment of a building line against the property owner and property abutting or in the vicinity of the

building line.

(b) If, in the condemnation of a tract, the ownership of the tract or the interests in the tract are in controversy or unknown, an award for the tract may be made in bulk and paid into court for the use of the parties owning or interested in the tract as their ownership or interest appears.

(c) When the award and findings of the special commissioners, who are appointed under Chapter 21, Property Code, are filed with the court having jurisdiction over the condemnation proceedings, the award and findings are final and shall be made the judgment of the court. Compensation is due and payable on rendition of the judgment by the court adopting the award.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.136. CONDEMNATION OF PROPERTY. (a) Before or after expiration of the period for conformance set under Section 214.134(b)(2), a municipality, following the same procedure that it is authorized by law to use to institute condemnation proceedings, may:

(1) remove a structure and condemn property in the area between a street and a building line; and

(2) impose an assessment against property owners and property that is benefitted by the establishment of the building line to the extent of the benefit.

(b) The municipality must provide notice and a hearing to the owner of affected property for the determination of:

(1) additional damages sustained by the removal of a structure or the taking of land in the area between a street and a building line; or

(2) the assessment to be imposed against a property owner and the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.006 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

SUBCHAPTER E. COMMERCIAL BUILDING PERMITS IN CERTAIN POPULOUS MUNICIPALITIES

Sec. 214.161. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 1.18 million located primarily in a county with a population of 2.5 million or more.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 94, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 74, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 79, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 143, eff. September 1, 2023.

Sec. 214.162. DEFINITIONS. In this subchapter:

(1) "Commercial building" means a building that is not a single family residence.

(2) "Permit department" means the municipal agency that is authorized to issue commercial building permits.

(3) "Subdivider" means a person who divides a tract of real property under circumstances to which Subchapter A, Chapter 212 applies.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.012 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.163. PERMIT APPLICATION REQUIREMENTS; ISSUANCE OF PERMIT. (a) A person who desires to obtain a commercial building permit must file with the permit application a certified copy of any instrument that contains a restriction on the use of or on construction on the affected property and must also include a certified copy of any amendment, judgment, or other document that affects the use of the property.

(b) The permit department shall issue a permit for construction or repair that conforms to all restrictions relating to the use of

the property described in the application if the applicant for the permit has complied with this subchapter and with local ordinances relating to commercial building permits.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.013 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.164. FILING OF PLAT AND RESTRICTIONS; EFFECT ON PERMIT. (a) At the time that a subdivider files a plat of a proposed subdivision for recording, the subdivider shall file with the permit department two copies of the subdivision plat and of any restrictions relating to the property included in the plat.

(b) The permit department shall securely keep one copy of the plat and restrictions as a permanent record.

(c) A person who desires to obtain a commercial building permit for property that is included in a plat or restrictions on file with the permit department is not required to file a copy of the plat and the restrictions with the permit application.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.014 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.165. REPAIRS; CONVERSIONS. (a) A person who proposes to substantially repair or remodel a commercial building located within a subdivision or to convert a single family residence into a commercial building must obtain a commercial building permit from the permit department.

(b) This section does not apply to a violation of a restrictive covenant that occurred before May 18, 1965, if the violation retains the status existing on that date.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.015 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.166. INJUNCTION. (a) A person who, without obtaining

a permit, attempts to construct or repair any structure for which a commercial building permit is required may be enjoined from any further construction activity until the person complies with this subchapter.

(b) The municipality may join with an interested property owner in a suit to enjoin further construction activity by a person who does not have a permit issued in compliance with this subchapter if the structure or proposed structure violates a restriction contained in the deed or other instrument.

(c) A municipality may join with an interested property owner in a suit to enjoin the maintenance of a commercial building by a person who does not have a permit in compliance with this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.016 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.167. REVIEW OF REFUSAL TO ISSUE PERMIT. (a) An administrative refusal to issue a commercial building permit based on a violation of restrictions contained in a deed or other instrument is reviewable by a court of competent jurisdiction if, during the 90-day period after the day on which the permit is refused, the person contesting the refusal gives notice to the permit department that the suit has been filed.

(b) If conditions in a subdivision change or if other legally sufficient reasons to modify the restrictions occur, a person who has been refused a commercial building permit may petition a court of competent jurisdiction to alter the restrictions to better conform to present conditions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.017 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.168. VOID PERMITS. A commercial permit obtained without full compliance with this subchapter is void.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.018 by Acts 2001, 77th Leg., ch. 1420, Sec.

12.002(5), eff. Sept. 1, 2001.

SUBCHAPTER F. BURGLAR ALARM SYSTEMS IN CERTAIN MUNICIPALITIES WHOLLY LOCATED IN CERTAIN COUNTIES

Sec. 214.191. DEFINITIONS. In this subchapter:

(1) "Alarm system" means a device or system that transmits a signal intended to summon police of a municipality in response to a burglary. The term includes an alarm that emits an audible signal on the exterior of a structure. The term does not include an alarm installed on a vehicle, unless the vehicle is used for a habitation at a permanent site, or an alarm designed to alert only the inhabitants within the premises.

(2) "Permit" means a certificate, license, permit, or other form of permission that authorizes a person to engage in an action.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.001 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Sec. 214.1915. APPLICABILITY. This subchapter applies only to a municipality with a population of less than 100,000 that is located wholly in a county with a population of less than 500,000.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 2, eff. September 1, 2015.

Sec. 214.192. CATEGORIES OF ALARM SYSTEMS. The category of alarm system to be regulated is burglary.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Sec. 214.193. DURATION OF MUNICIPAL PERMIT. (a) If a municipality adopts an ordinance that requires a person to obtain a permit from the municipality before a person may use an alarm system in the municipality, the ordinance must provide that the permit is

valid for at least one year.

(b) This requirement does not affect the authority of the municipality to:

(1) revoke, suspend, or otherwise affect the duration of a permit for disciplinary reasons at any time during the period for which the permit is issued; or

(2) make a permit valid for a period of less than one year if necessary to conform the permit to the termination schedule established by the municipality for permits.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept 1, 2001.

Sec. 214.194. MUNICIPAL PERMIT FEE GENERALLY. (a) If a municipality adopts an ordinance that requires a person to pay an annual fee to obtain a permit from the municipality before the person may use an alarm system in the municipality, the fee shall be used for the general administration of this subchapter, including the provision of responses generally required to implement this subchapter other than specific responses to false alarms.

(b) A municipal permit fee imposed under this section may not exceed the rate of $50 a year for a residential location.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.004 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 1, eff. September 1, 2005.

Sec. 214.195. NONRENEWAL OR REVOCATION OF PERMIT AND TERMINATION OF MUNICIPAL RESPONSE; DISCRIMINATION PROHIBITED. (a) Except as provided in Subsection (d), a municipality may not terminate its law enforcement response to a residential permit holder because of excess false alarms if the false alarm fees are paid in full.

(b) In permitting free false alarm responses and in setting false alarm fees, a municipality must administer any ordinance on a

fair and equitable basis as determined by the governing body.

(c) A municipality may not terminate an alarm permit for nonrenewal without providing at least 30 days' notice.

(d) A municipality may revoke or refuse to renew the permit of an alarm system that has had eight or more false alarms during the preceding 12-month period.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 3, eff. September 1, 2005.

Sec. 214.1955. MULTIUNIT HOUSING FACILITIES. (a) A municipality may not refuse to issue an alarm system permit for a residential location solely because the residential location is an individual residential unit located in a multiunit housing facility.

(b) In issuing an alarm system permit for an alarm installed in an individual residential unit of a multiunit housing facility, the municipality shall issue the permit to the person occupying the individual residential unit.

(c) A municipality may impose a penalty under Section 214.197 for the signaling of a false alarm on the premises of a multiunit housing facility for a facility other than an individual residential unit only if the permit holder is notified of:

(1) the date of the signaling of the false alarm;

(2) the address of the multiunit housing facility where the signaling of the false alarm occurred; and

(3) the identification of the individual facility, if applicable, located on the multiunit housing facility premises where the signaling of the false alarm occurred.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 4, eff. September 1, 2005.

Sec. 214.196. ON-SITE INSPECTION REQUIRED. A municipality may

not consider a false alarm to have occurred unless a response is made by an agency of the municipality within 30 minutes of the alarm notification and the agency determines from an inspection of the interior or exterior of the premises that the alarm was false.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Sec. 214.197. PENALTIES FOR FALSE ALARMS. A municipality may impose a penalty for the signaling of a false alarm by a burglar alarm system if at least three other false alarms have occurred during the preceding 12-month period. The amount of the penalty for the signaling of a false alarm as described by Section 214.196 may not exceed:

(1) $50, if the location has had more than three but fewer than six other false alarms in the preceding 12-month period;

(2) $75, if the location has had more than five but fewer than eight other false alarms in the preceding 12-month period; or

(3) $100, if the location has had eight or more other false alarms in the preceding 12-month period.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.007 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 5, eff. September 1, 2005.

Sec. 214.198. VERIFICATION. A municipality may require an alarm systems monitor to attempt to contact the occupant of the alarm system location twice before the municipality responds to the alarm signal.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 6, eff. September 1, 2005.

Sec. 214.199. EXCEPTION OF MUNICIPALITY FROM ALARM SYSTEM

RESPONSE. (a) The governing body of a municipality may not adopt an ordinance providing that law enforcement personnel of the municipality will not respond to any alarm signal indicated by an alarm system in the municipality unless, before adopting the ordinance, the governing body of the municipality:

(1) makes reasonable efforts to notify permit holders of its intention to adopt the ordinance; and

(2) conducts a public hearing at which persons interested in the response of the municipality to alarm systems are given the opportunity to be heard.

(b) A municipality that adopts an ordinance under this section may not impose or collect any fine, fee, or penalty otherwise authorized by this subchapter.

(c) A municipality that adopts or proposes to adopt an ordinance under this section may notify permit holders that a permit holder may contract with a security services provider licensed by the Texas Private Security Board under Chapter 1702, Occupations Code, to respond to an alarm. The notice, if given, must include the board's telephone number and Internet website address.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 6, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 232 (H.B. 1784), Sec. 1, eff. September 1, 2007.

Sec. 214.200. PRIORITY OR LEVEL OF RESPONSE NOT AFFECTED; LIABILITY OF MUNICIPALITY FOR NONRESPONSE. (a) Nothing in this subchapter:

(1) affects the priority or level of response provided by a municipality to a permitted location; or

(2) waives the governmental immunity provided by law for a municipality.

(b) A municipality that does not respond to an alarm signal is not liable for damages that may occur relating to the cause of the alarm signal.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 6, eff. September 1, 2005.

SUBCHAPTER F-1. BURGLAR ALARM SYSTEMS IN LARGE MUNICIPALITIES AND MUNICIPALITIES WHOLLY OR PARTLY LOCATED IN LARGE COUNTIES

Sec. 214.201. DEFINITIONS. In this subchapter:

(1) "Alarm system" and "permit" have the meanings assigned by Section 214.191.

(2) "Alarm systems monitor" means a person who acts as an alarm systems company under Section 1702.105, Occupations Code.

(3) "False alarm" means a notification of possible criminal activity reported to law enforcement:

(A) that is based solely on electronic information remotely received by an alarm systems monitor;

(B) that is uncorroborated by eyewitness, video, or photographic evidence that an emergency exists; and

(C) concerning which an agency of the municipality has verified that no emergency exists after an on-site inspection of the location from which the notification originated.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.2015. APPLICABILITY. This subchapter does not apply to a municipality to which Subchapter F applies.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.202. CATEGORIES OF ALARM SYSTEMS. The category of alarm system to be regulated is burglary.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.203. DURATION OF MUNICIPAL PERMIT. (a) If a municipality adopts an ordinance that requires a person to obtain a permit from the municipality before a person may use an alarm system in the municipality, the ordinance must provide that the permit is valid for at least one year.

(b) This requirement does not affect the authority of the

municipality to:

(1) revoke, suspend, or otherwise affect the duration of a permit for disciplinary reasons at any time during the period for which the permit is issued; or

(2) make a permit valid for a period of less than one year if necessary to conform the permit to the termination schedule established by the municipality for permits.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.204. MUNICIPAL PERMIT FEE GENERALLY. (a) If a municipality adopts an ordinance that requires a person to pay an annual fee to obtain a permit from the municipality before the person may use an alarm system in the municipality, the fee shall be used for the general administration of this subchapter, including the provision of responses generally required to implement this subchapter other than specific responses to false alarms.

(b) A municipal permit fee imposed under this section for an alarm system may not exceed the rate of:

(1) $50 a year for a residential location; and

(2) $250 a year for other alarm system locations.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.205. NONRENEWAL OR REVOCATION OF PERMIT; TERMINATION OF MUNICIPAL RESPONSE; DISCRIMINATION PROHIBITED. (a) Except as provided by Subsection (d), a municipality may not terminate its law enforcement response to a residential permit holder because of excess false alarms if the false alarm fees are paid in full.

(b) In permitting free false alarm responses and in setting false alarm fees, a municipality must administer any ordinance on a fair and equitable basis as determined by the governing body.

(c) A municipality may not terminate an alarm permit for nonrenewal without providing at least 30 days' notice.

(d) A municipality may revoke or refuse to renew the permit of an alarm system that has had eight or more false alarms during the preceding 12-month period.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.2055. MULTIUNIT HOUSING FACILITIES. (a) A municipality may not refuse to issue an alarm system permit for a residential location solely because the residential location is an individual residential unit located in a multiunit housing facility.

(b) In issuing an alarm system permit for an alarm installed in an individual residential unit of a multiunit housing facility, the municipality shall issue the permit to the person occupying the individual residential unit.

(c) A municipality may impose a penalty under Section 214.207 for the signaling of a false alarm on the premises of a multiunit housing facility for a facility other than an individual residential unit only if the permit holder is notified of:

(1) the date of the signaling of the false alarm;

(2) the address of the multiunit housing facility where the signaling of the false alarm occurred; and

(3) the identification of the individual facility, if applicable, located on the multiunit housing facility premises where the signaling of the false alarm occurred.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.206. ON-SITE INSPECTION REQUIRED. A municipality may not consider a false alarm to have occurred unless a response is made by an agency of the municipality within a reasonable time and the agency determines from an inspection of the interior or exterior of the premises that the alarm report by an alarm systems monitor was false.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.207. PENALTIES FOR FALSE ALARMS. (a) A municipality may impose a penalty on a person who uses an alarm system in the municipality for the report of a false alarm by an alarm systems

monitor if at least three other false alarms have occurred at that location during the preceding 12-month period. The amount of the penalty for the report of a false alarm as described by Section 214.206 may not exceed:

(1) $50, if the location has had more than three but fewer than six other false alarms in the preceding 12-month period;

(2) $75, if the location has had more than five but fewer than eight other false alarms in the preceding 12-month period; or

(3) $100, if the location has had eight or more other false alarms in the preceding 12-month period.

(b) A municipality may not impose a penalty authorized under Subsection (a) if reasonable visual proof of possible criminal activity recorded by an alarm systems monitor is provided to the municipality before the inspection of the premises by an agency of the municipality.

(c) A municipality that adopts an ordinance requiring a person to obtain a permit from the municipality before the person may use an alarm system in the municipality may impose a penalty, not to exceed $250, for the report of a false alarm by an alarm systems monitor on a person who has not obtained a permit for the alarm system as required by the municipal ordinance.

(d) A municipality:

(1) may impose a penalty, not to exceed $250, for the report of a false alarm on a person not licensed under Chapter 1702, Occupations Code, that to any extent is reported or facilitated by the unlicensed person; and

(2) may not impose a penalty for the report of a false alarm on a person licensed under Chapter 1702, Occupations Code.

(e) A municipality may not impose or collect any fine, fee, or penalty, other than collection fees, related to a false alarm or alarm system unless the fine, fee, or penalty is defined in the ordinance in accordance with this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.208. PROCEDURES FOR REDUCING FALSE ALARMS. A municipality may require an alarm systems monitor to attempt to contact the occupant of the alarm system location twice before the

municipality responds to the alarm signal.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.209. EXCEPTION OF MUNICIPALITY FROM ALARM SYSTEM RESPONSE. (a) The governing body of a municipality may not adopt an ordinance providing that law enforcement personnel of the municipality will not respond to any alarm signal indicated by an alarm system in the municipality unless, before adopting the ordinance, the governing body of the municipality:

(1) makes reasonable efforts to notify permit holders of its intention to adopt the ordinance; and

(2) conducts a public hearing at which persons interested in the response of the municipality to alarm systems are given the opportunity to be heard.

(b) A municipality that adopts an ordinance under this section may not impose or collect any fine, fee, or penalty otherwise authorized by this subchapter.

(c) A municipality that adopts or proposes to adopt an ordinance under this section may notify permit holders that a permit holder may contract with a security services provider licensed by the Texas Private Security Board under Chapter 1702, Occupations Code, to respond to an alarm. The notice, if given, must include the board's telephone number and Internet website address.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.210. PRIORITY OR LEVEL OF RESPONSE NOT AFFECTED; LIABILITY OF MUNICIPALITY FOR NONRESPONSE. (a) Nothing in this subchapter:

(1) affects the priority or level of response provided by a municipality to a permitted location; or

(2) waives the governmental immunity provided by law for a municipality.

(b) A municipality that does not respond to an alarm system signal is not liable for damages that may occur relating to the cause of the alarm system signal.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.2105. EXCLUSION OF CERTAIN ALARM SYSTEMS BY OWNER. (a) A property owner or an agent of the property owner authorized to make decisions regarding the use of the property may elect to exclude the municipality from receiving an alarm signal by an alarm system located on the owner's property. A municipality may adopt an ordinance that specifies the requirements a property owner must satisfy for an election to be made under this section.

(b) If an election is made under Subsection (a), the municipality:

(1) may not impose a fee to obtain a permit to use the alarm system;

(2) may impose a fee on the property owner, not to exceed $250, for each law enforcement response to a signal from the alarm system requested by an alarm systems monitor; and

(3) may not impose or collect any other fine, penalty, or fee, other than a collection fee, related to the alarm system.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

SUBCHAPTER G. BUILDING AND REHABILITATION CODES

Sec. 214.211. DEFINITIONS. In this subchapter:

(1) "International Residential Code" means the International Residential Code for One- and Two-Family Dwellings promulgated by the International Code Council.

(2) "National Electrical Code" means the electrical code published by the National Fire Protection Association.

(3) "Residential" means having the character of a detached one-family or two-family dwelling or a multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling, and that does not have the character of a facility used for the accommodation of transient guests or a structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure.

(4) "International Building Code" means the International Building Code promulgated by the International Code Council.

(5) "Commercial" means a building for the use or occupation of people for:

(A) a public purpose or economic gain; or

(B) a residence if the building is a multifamily residence that is not defined as residential by this section.

(6) "Residential energy backup system" means a backup energy system installed at a residential property that is capable of providing no more than 50 kilowatts of electricity to the residence or has a storage capacity of no more than 100 kilowatt hours.

Added by Acts 2001, 77th Leg., ch. 120, Sec. 1, eff. Jan. 1, 2002. Amended by:

Acts 2005, 79th Leg., Ch. 389 (S.B. 1458), Sec. 1, eff. January 1, 2006.

Acts 2025, 89th Leg., R.S., Ch. 356 (S.B. 1252), Sec. 1, eff. September 1, 2025.

Sec. 214.212. INTERNATIONAL RESIDENTIAL CODE. (a) To protect the public health, safety, and welfare, the International Residential Code, as it existed on May 1, 2012, is adopted as a municipal residential building code in this state.

(b) The International Residential Code applies to all construction, alteration, remodeling, enlargement, and repair of residential structures in a municipality.

(c) Subject to Subsection (e), a municipality may establish procedures:

(1) to adopt local amendments to the International Residential Code that may add, modify, or remove requirements set by the code; and

(2) for the administration and enforcement of the International Residential Code.

(d) A municipality may review and consider amendments made by the International Code Council to the International Residential Code after May 1, 2012.

(e) A municipality may not adopt a local amendment under Subsection (c) unless the municipality:

(1) holds a public hearing on the local amendment before

adopting the local amendment; and

(2) adopts the local amendment by ordinance.

Added by Acts 2001, 77th Leg., ch. 120, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 315 (H.B. 738), Sec. 1, eff. January 1, 2022.

Sec. 214.213. EXCEPTIONS. (a) The International Residential Code and the International Building Code do not apply to the installation and maintenance of electrical wiring and related components.

(b) A municipality is not required to review and consider adoption of amendments to the International Residential Code or the International Building Code regarding electrical provisions.

Added by Acts 2001, 77th Leg., ch. 120, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2005, 79th Leg., Ch. 389 (S.B. 1458), Sec. 2, eff. January 1, 2006.

Sec. 214.214. NATIONAL ELECTRICAL CODE. (a) Except as provided by Subsection (c), the National Electrical Code, as it existed on May 1, 2001, is adopted as the municipal electrical construction code in this state and applies to all residential and commercial electrical construction applications.

(b) A municipality may establish procedures:

(1) to adopt local amendments to the National Electrical Code; and

(2) for the administration and enforcement of the National Electrical Code.

(c) The National Electrical Code applies to all commercial buildings in a municipality for which construction begins on or after January 1, 2006, and to any alteration, remodeling, enlargement, or repair of those commercial buildings.

(d) A municipality may not adopt or enforce an amendment to the National Electrical Code that would regulate the installation or inspection of a residential energy backup system.

(e) Subsection (d) does not limit the authority of a

municipally owned utility, as defined by Section 11.003, Utilities Code, to regulate the installation or inspection of a residential energy backup system within the utility's service area.

Added by Acts 2001, 77th Leg., ch. 120, Sec. 1, eff. Jan. 1, 2002. Amended by:

Acts 2005, 79th Leg., Ch. 389 (S.B. 1458), Sec. 3, eff. January 1, 2006.

Acts 2025, 89th Leg., R.S., Ch. 356 (S.B. 1252), Sec. 2, eff. September 1, 2025.

Sec. 214.215. ADOPTION OF REHABILITATION CODES OR PROVISIONS. (a) In this section, "rehabilitation" means the alteration, remodeling, enlargement, or repair of an existing structure.

(b) A municipality that adopts a building code, other than the International Residential Code adopted under Section 214.212, shall adopt one of the following:

(1) prescriptive provisions for rehabilitation as part of the municipality's building code; or

(2) the rehabilitation code that accompanies the building code adopted by the municipality.

(c) The rehabilitation code or prescriptive provisions do not apply to the rehabilitation of a structure to which the International Residential Code applies or to the construction of a new structure.

(d) A municipality may:

(1) adopt the rehabilitation code or prescriptive provisions for rehabilitation recommended by the Texas Board of Architectural Examiners; or

(2) amend its rehabilitation code or prescriptive provisions for rehabilitation.

(e) A municipality shall enforce the prescriptive provisions for rehabilitation or the rehabilitation code in a manner consistent with the enforcement of the municipality's building code.

Added by Acts 2003, 78th Leg., ch. 331, Sec. 6.02, eff. Sept. 1, 2003.

Sec. 214.216. INTERNATIONAL BUILDING CODE. (a) To protect the public health, safety, and welfare, the International Building Code,

as it existed on May 1, 2012, is adopted as a municipal commercial building code in this state.

(b) The International Building Code applies to all commercial buildings in a municipality and to any alteration, remodeling, enlargement, or repair of those commercial buildings.

(c) Subject to Subsection (f), a municipality may establish procedures:

(1) to adopt local amendments to the International Building Code that may add, modify, or remove requirements set by the code; and

(2) for the administration and enforcement of the International Building Code.

(d) A municipality may review and consider amendments made by the International Code Council to the International Building Code after May 1, 2012.

(e) A municipality that has adopted a more stringent commercial building code than a commercial building code required by this section is not required to repeal that code and may adopt future editions of that code.

(f) A municipality may not adopt a local amendment under Subsection (c) unless the municipality:

(1) holds a public hearing on the local amendment before adopting the local amendment; and

(2) adopts the local amendment by ordinance.

Added by Acts 2005, 79th Leg., Ch. 389 (S.B. 1458), Sec. 4, eff. January 1, 2006.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 315 (H.B. 738), Sec. 2, eff. January 1, 2022.

Sec. 214.217. NOTICE REGARDING MODEL CODE ADOPTION OR AMENDMENT IN CERTAIN MUNICIPALITIES. (a) In this section, "national model code" means a publication that is developed, promulgated, and periodically updated at a national level by organizations consisting of industry and government fire and building safety officials through a legislative or consensus process and that is intended for consideration by units of government as local law. National model codes include the International Residential Code, the National

Electrical Code, and the International Building Code.

(b) This section applies only to a municipality with a population of more than 100,000.

(c) On or before the 21st day before the date the governing body of a municipality takes action to consider, review, and recommend the adoption of or amendment to a national model code governing the construction, renovation, use, or maintenance of buildings and building systems in the municipality, the governing body shall publish notice of the proposed action conspicuously on the municipality's Internet website.

(d) The governing body of the municipality shall make a reasonable effort to encourage public comment from persons affected by the proposed adoption of or amendment to a national model code under this section.

(e) On the written request from five or more persons or if required by Section 214.212(e) or 214.216(f), the governing body of the municipality shall hold a public hearing open to public comment on the proposed adoption of or amendment to a national model code under this section. The hearing must be held on or before the 14th day before the date the governing body adopts the ordinance that adopts or amends a national model code under this section.

(f) If the governing body of a municipality has established an advisory board or substantially similar entity for the purpose of obtaining public comment on the proposed adoption of or amendment to a national model code, this section does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 130 (S.B. 820), Sec. 1, eff. May 23, 2009.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 315 (H.B. 738), Sec. 3, eff. January 1, 2022.

Sec. 214.218. IMMEDIATE EFFECT OF CERTAIN CODES OR PROVISIONS DELAYED. (a) In this section, "national model code" has the meaning assigned by Section 214.217.

(b) Except as provided by Subsection (c), the governing body of a municipality with a population of more than 100,000 that adopts an ordinance or national model code provision that is intended to govern the construction, renovation, use, or maintenance of buildings and

building systems in the municipality shall delay implementing and enforcing the ordinance or code provision for at least 30 days after final adoption to permit persons affected to comply with the ordinance or code provision.

(c) If a delay in implementing or enforcing the ordinance or code provision would cause imminent harm to the health or safety of the public, the municipality may enforce the ordinance or code provision immediately on the effective date of the ordinance or code provision.

Added by Acts 2009, 81st Leg., R.S., Ch. 130 (S.B. 820), Sec. 1, eff. May 23, 2009.

Sec. 214.219. MINIMUM HABITABILITY STANDARDS FOR MULTI-FAMILY RENTAL BUILDINGS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 1.7 million or more. This section does not affect the authority of a municipality to which this section does not apply to enact or enforce laws relating to multi-family rental buildings.

(b) In this section:

(1) "Multi-family rental building" means a building that has three or more single-family residential units.

(2) "Unit" means one or more rooms rented for use as a permanent residence under a single lease to one or more tenants.

(c) A municipality shall adopt an ordinance to establish minimum habitability standards for multi-family rental buildings, including requiring maintenance of proper operating conditions.

(d) A municipality may establish other standards as necessary to reduce material risks to the physical health or safety of tenants of multi-family rental buildings.

(e) A municipality shall establish a program for the inspection of multi-family rental buildings to determine if the buildings meet the minimum required habitability standards. The program shall include inspections under the direction of:

(1) the municipality's building official, as defined by the International Building Code or by a local amendment to the code under Section 214.216;

(2) the chief executive of the municipality's fire department; and

(3) the municipality's health authority, as defined by Section 121.021, Health and Safety Code.

(f) A municipality may not order the closure of a multi-family rental building due to a violation of an ordinance adopted by the municipality relating to habitability unless the municipality makes a good faith effort to locate housing with comparable rental rates in the same school district for the residents displaced by the closure.

(g) The owner of a multi-family rental building commits an offense if the owner violates an ordinance adopted under this section. An offense under this subsection is a Class C misdemeanor. Each day the violation continues constitutes a separate offense.

(h) A municipality may impose a civil penalty under Section 54.017 for a violation of this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1127 (H.B. 1819), Sec. 1, eff. June 19, 2009.

Sec. 214.220. INSPECTION DURING DECLARED DISASTER. (a) In an area of a municipality that is subject to a declaration of disaster by the governor under Chapter 418, Government Code, or a declaration of local disaster under that chapter, a building inspection for compliance with this subchapter or related municipal regulations may, while the declaration is in effect, be performed by a person:

(1) other than:

(A) the owner of the building; or

(B) a person whose work is the subject of the inspection; and

(2) who is:

(A) certified to inspect buildings by the International Code Council;

(B) employed as a building inspector by the municipality in which the building is located;

(C) employed as a building inspector by any political subdivision, if the municipality in which the building is located has approved the person to perform inspections during a disaster; or

(D) an engineer licensed under Chapter 1001, Occupations Code.

(b) A municipality may not collect an additional inspection fee related to the inspection of a building performed under Subsection

(a).

(c) A person who performs an inspection under this section must:

(1) comply with the municipality's building inspection regulations and policies; and

(2) not later than the 30th day after the date of the inspection, provide notice to the municipality of the inspection.

(d) The municipality may prescribe a reasonable format for the notice provided under Subsection (c)(2).

Added by Acts 2021, 87th Leg., R.S., Ch. 427 (S.B. 877), Sec. 1, eff. June 8, 2021.

Sec. 214.221. REGULATION OF SOLAR PERGOLAS. A municipality may not apply a municipal building code to the construction of a solar pergola.

Added by Acts 2023, 88th Leg., R.S., Ch. 332 (H.B. 3526), Sec. 1, eff. September 1, 2023.

SUBCHAPTER H. REGISTRATION OF VACANT BUILDINGS

Sec. 214.231. DEFINITIONS. In this subchapter:

(1) "Building" means any enclosed structure designed for use as a habitation or for a commercial use, including engaging in trade or manufacture.

(2) "Owner" means the person that owns the real property on which a building is situated, according to:

(A) the real property records of the county in which the property is located; or

(B) the records of the appraisal district in which the property is located.

(3) "Unit" means an enclosed area designed:

(A) for habitation by a single family; or

(B) for a commercial use, including engaging in trade or manufacture, by a tenant.

Added by Acts 2009, 81st Leg., R.S., Ch. 1157 (H.B. 3065), Sec. 1, eff. January 1, 2010.

Sec. 214.232. PRESUMPTION OF VACANCY. A building is presumed to be vacant under this subchapter if:

(1) all lawful residential, commercial, recreational, charitable, or construction activity at the building has ceased, or reasonably appears to have ceased, for more than 150 days; or

(2) the building contains more than three units, 75 percent or more of which have not been used lawfully, or reasonably appear not to have been used lawfully, for more than 150 days.

Added by Acts 2009, 81st Leg., R.S., Ch. 1157 (H.B. 3065), Sec. 1, eff. January 1, 2010.

Sec. 214.233. REGISTRATION. (a) A municipality located in a county with a population of 2.5 million or more may adopt an ordinance requiring owners of vacant buildings to register their buildings by filing a registration form with a designated municipal official.

(b) A municipality, in an ordinance adopted under this subchapter, may exempt certain classifications of buildings as determined reasonable and appropriate by the governing body of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1157 (H.B. 3065), Sec. 1, eff. January 1, 2010.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 80, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 144, eff. September 1, 2023.

Sec. 214.234. FORM. An ordinance adopted under this subchapter may require a designated municipal official to adopt a form for registration. The form adopted may require the disclosure of information reasonably necessary for the municipality to minimize the threat to health, safety, and welfare that a vacant building may present to the public.

Added by Acts 2009, 81st Leg., R.S., Ch. 1157 (H.B. 3065), Sec. 1, eff. January 1, 2010.

SUBCHAPTER I. SINGLE STAIRWAY IN CERTAIN APARTMENT BUILDINGS

Sec. 214.301. PERMITTED REGULATION OF APARTMENT BUILDING STAIRWAY REQUIREMENTS. (a) A municipality may exercise the authority under this section regardless of whether the municipality has adopted local amendments to the International Building Code under Section 214.216(c).

(b) A municipality may authorize an apartment building to have a single stairway only if the building:

(1) does not have more than six stories above grade plane and is not a high-rise as defined by the International Building Code, as adopted under Section 214.216;

(2) does not have more than four dwelling units on any floor;

(3) has automatic sprinkler locations in each interior exit stairway, regardless of the type of stairway construction, that comply with the requirements prescribed by National Fire Protection Association Standard 13 for combustible stairways;

(4) has:

(A) an exterior stairway; or

(B) an interior exit stairway for which the doors:

(i) into the stairway from the interior of the building swing into the stairway regardless of the occupant load served; and

(ii) from the interior exit stairway to the building exterior swing in the direction of exit travel;

(5) has interior exit stairway enclosures that:

(A) have a fire resistance rating of not less than two hours; and

(B) do not contain an elevator opening;

(6) has on each floor a corridor from each dwelling unit entry or exit door to an interior exit stairway, including any related exit passageway, that has a fire resistance rating of at least one hour;

(7) does not have more than 20 feet between the entry or exit door of a dwelling unit and an exit stairway;

(8) does not have more than 125 feet of exit access travel distance;

(9) has an exit serving the portion of the building that

contains two or more dwelling units that does not discharge through a portion of the building with a different occupancy category, including an accessory parking garage;

(10) has an exit that terminates in an egress court for which the court depth does not exceed the court width, unless it is possible to exit the egress court to the public way in either direction;

(11) does not have an opening within 10 feet of an unprotected opening into an exit stairway other than a required exit door that has a fire resistance rating of at least one hour;

(12) has emergency escape and rescue openings that comply with Section 1031 of the International Building Code as adopted under Section 214.216 on each floor served by a single exit;

(13) does not have an electrical receptacle in an interior exit stairway; and

(14) has an automatic smoke and fire detection system that activates an occupant notification system that complies with Section 907.5 of the International Building Code as adopted under Section 214.216 installed in each:

(A) common space outside of a dwelling unit;

(B) laundry room, mechanical equipment room, and storage room;

(C) interior corridor serving a dwelling unit; and

(D) main floor landing or interior or exterior exit stairway.

Added by Acts 2025, 89th Leg., R.S., Ch. 701 (S.B. 2835), Sec. 1, eff. September 1, 2025.

SUBCHAPTER Z. MISCELLANEOUS POWERS AND DUTIES

Sec. 214.901. ENERGY CONSERVATION. A home-rule municipality may require that the construction of buildings comply with the energy conservation standards in the municipal building code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 214.902. RENT CONTROL. (a) The governing body of a municipality may, by ordinance, establish rent control if:

(1) the governing body finds that a housing emergency

exists due to a disaster as defined by Section 418.004, Government Code; and

(2) the governor approves the ordinance.

(b) The governing body shall continue or discontinue rent control in the same manner that the governor continues or discontinues a state of disaster under Section 418.014, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.108, eff. Sept. 1, 2001.

Sec. 214.903. FAIR HOUSING ORDINANCES. (a) The governing body of a municipality may adopt fair housing ordinances that provide fair housing rights, compliance duties, and remedies that are substantially equivalent to those granted under federal law. Enforcement procedures and remedies in fair housing ordinances may vary from state or federal fair housing law.

(b) Fair housing ordinances that were in existence on January 1, 1991, and are more restrictive than federal fair housing law shall remain in effect.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 22, eff. Sept. 1, 1993. Renumbered from Sec. 51.002 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(84), eff. Sept. 1, 1999. Renumbered from Sec. 215.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Sec. 214.904. TIME FOR ISSUANCE OF MUNICIPAL BUILDING PERMIT. (a) This section applies only to a permit required by a municipality to erect or improve a building or other structure in the municipality or its extraterritorial jurisdiction.

(b) Not later than the 45th day after the date an application for a permit is submitted, the municipality must:

(1) grant or deny the permit;

(2) provide written notice to the applicant stating the reasons why the municipality has been unable to grant or deny the permit application; or

(3) reach a written agreement with the applicant providing for a deadline for granting or denying the permit.

(c) For a permit application for which notice is provided under

Subsection (b)(2), the municipality must grant or deny the permit not later than the 30th day after the date the notice is received.

(d) If a municipality fails to grant or deny a permit application in the time required by Subsection (c) or by an agreement under Subsection (b)(3), the municipality:

(1) may not collect any permit fees associated with the application; and

(2) shall refund to the applicant any permit fees associated with the application that have been collected.

Added by Acts 2005, 79th Leg., Ch. 917 (H.B. 265), Sec. 1, eff. September 1, 2005.

Sec. 214.905. PROHIBITION OF CERTAIN MUNICIPAL REQUIREMENTS REGARDING SALES OF HOUSING UNITS OR RESIDENTIAL LOTS. (a) A municipality may not adopt a requirement in any form, including through an ordinance or regulation or as a condition for granting a building permit, that establishes a maximum sales price for a privately produced housing unit or residential building lot.

(b) This section does not affect any authority of a municipality to:

(1) create or implement an incentive, contract commitment, density bonus, or other voluntary program designed to increase the supply of moderate or lower-cost housing units; or

(2) adopt a requirement applicable to an area served under the provisions of Chapter 373A, Local Government Code, which authorizes homestead preservation districts, if such chapter is created by an act of the legislature.

(c) This section does not apply to a requirement adopted by a municipality for an area as a part of a development agreement entered into before September 1, 2005.

(d) This section does not apply to property that is part of an urban land bank program.

Added by Acts 2005, 79th Leg., Ch. 1103 (H.B. 2266), Sec. 1, eff. September 1, 2005.
Renumbered from Local Government Code, Section 214.904 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(55), eff. September 1, 2007.

Sec. 214.906. REGULATION OF MANUFACTURED HOME COMMUNITIES. (a) "Manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

(b) Notwithstanding any other law, the governing body of a municipality may not regulate a tract or parcel of land as a manufactured home community, park, or subdivision unless the tract or parcel contains at least four spaces offered for lease for installing and occupying manufactured homes.

Added by Acts 2017, 85th Leg., R.S., Ch. 741 (S.B. 1248), Sec. 2, eff. September 1, 2017.

Sec. 214.907. PROHIBITION ON CERTAIN VALUE-BASED BUILDING PERMIT AND INSPECTION FEES. (a) In determining the amount of a building permit or inspection fee required in connection with the construction or improvement of a residential dwelling, a municipality may not consider:

(1) the value of the dwelling; or

(2) the cost of constructing or improving the dwelling.

(b) A municipality may not require the disclosure of information related to the value of or cost of constructing or improving a residential dwelling as a condition of obtaining a building permit except as required by the Federal Emergency Management Agency for participation in the National Flood Insurance Program.

Added by Acts 2019, 86th Leg., R.S., Ch. 93 (H.B. 852), Sec. 1, eff. May 21, 2019.

Sec. 214.908. REAUTHORIZATION OF BUILDING PERMIT FEES. (a) In this section, "building permit fee" means a fee charged by a municipality as a condition to constructing, renovating, or remodeling a structure.

(b) A building permit fee is abolished on the 10th anniversary after the date the fee is adopted or most recently reauthorized under this section unless the governing body of the municipality that adopted or reauthorized the fee:

(1) holds a public hearing on the reauthorization of the fee; and

(2) reauthorizes the fee by vote of the governing body.

Added by Acts 2023, 88th Leg., R.S., Ch. 183 (H.B. 1922), Sec. 1, eff. January 1, 2024.

Sec. 214.909. DOCUMENT VERIFYING CERTIFICATE OF OCCUPANCY. (a) A municipality shall issue a document to the owner of a building verifying that the municipality has issued an original certificate of occupancy for the building if:

(1) the owner requests the document; and

(2) the municipality has a record of issuing the original certificate of occupancy for the building.

(b) A municipality may not adopt or enforce an ordinance, regulation, or other measure that requires the owner of a building issued a document described by Subsection (a) for the building to obtain or display the original certificate of occupancy for the building.

(c) A municipality must allow the owner of a building to display a document described by Subsection (a) issued for the building in lieu of the building's original certificate of occupancy.

Added by Acts 2025, 89th Leg., R.S., Ch. 464 (H.B. 4753), Sec. 1, eff. June 20, 2025.

CHAPTER 215. MUNICIPAL REGULATION OF BUSINESSES AND OCCUPATIONS

SUBCHAPTER A. REGULATION BY MUNICIPALITIES IN GENERAL

Sec. 215.002. MOTOR VEHICLES AND ACCESSORIES. (a) A municipality by ordinance may license and otherwise regulate persons engaged primarily or incidentally in the sale or exchange of motor vehicles or motor vehicle parts or accessories within the limits of the municipality.

(b) A municipality may prescribe penalties for the violation of the ordinance.

(c) Any money collected under the ordinance may be used by the municipality only for the enforcement of the ordinance and any other laws regulating the sale, exchange, or theft of motor vehicles or motor vehicle parts or accessories.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 87(l), eff. Aug. 28, 1989.

Sec. 215.003. RENDERING PLANTS. To protect residents of a municipality from health hazards related to unsanitary conditions that may exist in connection with rendering plants, the municipality by ordinance may regulate the equipment and manner of operation of rendering plants located within the limits of the municipality or within one mile of the limits.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.004. TAXICABS AND LIMOUSINES. (a) To protect the public health, safety, and welfare, a municipality by ordinance:

(1) shall license, control, and otherwise regulate each private passenger vehicle, regardless of how it is propelled, that provides passenger taxicab transportation services for compensation and is designed for carrying no more than eight passengers; and

(2) may license, control, and otherwise regulate each private passenger vehicle, regardless of how it is propelled, that provides passenger limousine transportation services for compensation and is designed for carrying no more than 15 passengers.

(a-1) Subsection (a) applies to a taxicab or limousine service that is operated:

(1) within the jurisdiction of the municipality;

(2) on property owned by the municipality, singly or jointly with one or more other municipalities or public agencies;

(3) on property in which the municipality possesses an ownership interest; or

(4) by transporting from the municipality, municipal property, or property in which the municipality has an interest and returning to it.

(b) The ordinance may include:

(1) regulation of the entry into the business of providing passenger taxicab or limousine transportation services, including controls, limits, or other restrictions on the total number of persons providing the services;

(2) regulation of the rates charged for the provision of the services;

(3) establishment of safety and insurance requirements; and

(4) any other requirement adopted to ensure safe and reliable passenger transportation service.

(c) In regulating passenger taxicab or limousine transportation services under this section, a municipality is performing a governmental function. A municipality may carry out the provisions of this section to the extent the governing body of the municipality considers it necessary or appropriate.

(d) The provisions of this section relating to the regulation of limousine transportation services apply only to a municipality with a population of more than 1.9 million.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 50(a), eff. Aug. 28, 1989. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 476 (H.B. 2338), Sec. 1, eff. September 1, 2007.

Sec. 215.006. CHURCH PROVIDING OVERNIGHT SHELTER. (a) In this section:

(1) "Church" means a facility that is owned by a religious organization and that is used primarily for religious services.

(2) "Religious organization" means an organization that meets the standards for qualification as a religious organization under Section 11.20, Tax Code.

(b) A municipality may not adopt an ordinance, or enforce an existing ordinance, that prohibits a church from providing overnight shelter for children 17 years of age and younger.

(c) A municipal ordinance or regulation that relates to the safe and sanitary operation of a homeless shelter for children applies to a church that provides overnight shelter for children.

(d) A municipality may adopt or enforce an ordinance establishing limits on the number of nights a child may use an overnight shelter provided by a church or on the number of children that can be housed in the shelter per night.

Added by Acts 2015, 84th Leg., R.S., Ch. 533 (H.B. 1558), Sec. 1, eff. September 1, 2015.

Sec. 215.007. SUSPENSION OR REVOCATION OF HOTEL CERTIFICATE OF

OCCUPANCY. (a) In this section:

(1) "Hotel" has the meaning assigned by Section 156.001, Tax Code.

(2) "Human trafficking activity" means conduct that constitutes an offense under Section 20A.02 or 20A.03, Penal Code.

(b) The governing body of a municipality may suspend or revoke a certificate of occupancy for a hotel located in the municipality if:

(1) a law enforcement officer provides an affidavit of probable cause swearing that criminal human trafficking activity is occurring in the hotel;

(2) a court with criminal jurisdiction in the county in which the hotel is located issues an order stating the court's finding of probable cause that human trafficking activity is occurring at the hotel; and

(3) the municipality follows the procedures described by Subsection (d) before suspending or revoking the certificate of occupancy.

(c) This section does not limit a hotel owner's or operator's right to a public hearing and to present evidence at a proceeding regarding the suspension or revocation of a certificate of occupancy.

(d) A municipality that seeks to suspend or revoke a certificate of occupancy for a hotel under this section shall follow procedures that are consistent with the suspension or revocation of a certificate of occupancy for any other type of business or use of land within the municipality.

(e) This section may not be construed to create a private cause of action.

Added by Acts 2025, 89th Leg., R.S., Ch. 1120 (H.B. 5509), Sec. 1, eff. September 1, 2025.

SUBCHAPTER B. REGULATION BY TYPE A GENERAL-LAW MUNICIPALITY

Sec. 215.021. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a Type A general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.022. BREAD. The governing body of the municipality

may regulate the weight and quality of bread to be sold or used within the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.023. BUTCHERS. The governing body of the municipality may adopt any rules relating to butchers that the governing body considers necessary and proper.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.024. TANNERIES; STABLES; SLAUGHTERHOUSES; OTHER BUSINESSES. (a) As necessary for the health, comfort, and convenience of the residents of the municipality, the governing body of the municipality may compel the owner or occupant to clean, abate, or remove:

(1) a grocery;
(2) a soap, tallow, or chandler establishment;
(3) a blacksmith shop;
(4) a tannery;
(5) a stable;
(6) a slaughterhouse;
(7) a sewer;
(8) a privy;
(9) a hide house; or
(10) any other unwholesome or nauseous house or place.

(b) The governing body may direct the location of:

(1) businesses;
(2) tanneries;
(3) blacksmith shops;
(4) foundries;
(5) livery stables; and
(6) manufacturing establishments.

(c) Within the limits of a municipality, the governing body may restrain, abate, prohibit, direct the location of, or regulate the management or construction of:

(1) slaughtering establishments;
(2) hide houses;
(3) establishments for making soap;

(4) establishments for steaming or rendering lard, tallow, offal, or any other substances that may be rendered; and

(5) any other establishments or places at which any nauseous, offensive, or unwholesome business may be conducted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.025. ANIMAL DRIVES. The governing body of the municipality may prohibit or otherwise regulate the driving of cattle, horses, or other animals in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.026. ANIMALS AT LARGE. (a) The governing body of the municipality may establish and regulate public pounds.

(b) The governing body may prohibit or otherwise regulate the running at large of horses, mules, cattle, sheep, swine, or goats.

(c) If an animal is at large in violation of an ordinance adopted under this section, the governing body may authorize:

(1) the capture and impounding of the animal;

(2) the sale of the animal for the costs of the sale proceedings and any penalties imposed;

(3) the destruction of the animal if the animal cannot be sold; and

(4) the imposition of a penalty on the owner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.027. BREEDING ANIMALS. The governing body of the municipality by ordinance may prohibit a person from keeping a jack, bull, or stallion in the municipality for breeding purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.028. MARKETS. (a) The governing body of the municipality may establish or erect markets or market houses.

(b) The governing body may designate and regulate market places

and privileges and may inspect and determine the manner of inspecting meat, fish, vegetables and other produce, and any other article brought for sale at a market.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.029. DRIVERS; PORTERS. (a) The governing body of the municipality may license, tax, or otherwise regulate:

(1) cabdrivers;

(2) draymen;

(3) bus drivers;

(4) baggage wagon drivers;

(5) porters; and

(6) any other persons pursuing similar occupations with or without vehicles.

(b) The governing body may prescribe the compensation of persons subject to Subsection (a).

(c) The governing body may provide for the protection of persons subject to Subsection (a) and may make the attempt to defraud those persons of any legal charge for services rendered a misdemeanor offense.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.030. MESSENGERS. The governing body of the municipality may license, restrain, or otherwise regulate messengers for railroads, stages, or public houses.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.031. HAWKERS; PEDDLERS; PAWNBROKERS. The governing body of the municipality may license, tax, suppress, prevent, or otherwise regulate:

(1) hawkers;

(2) peddlers; and

(3) pawnbrokers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.032. EXHIBITIONS; SHOWS; AMUSEMENTS. (a) The governing body of the municipality may license, tax, suppress, prevent, or otherwise regulate keepers of theatrical or other exhibitions, shows, or amusements.

(b) The governing body may license, tax, or otherwise regulate:

(1) theaters;

(2) circuses;

(3) exhibitions of common showmen;

(4) shows of any kind;

(5) exhibitions of natural or artificial curiosities;

(6) caravans;

(7) menageries; and

(8) musical exhibitions or performances.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.033. LICENSES; FEES. (a) The governing body of the municipality may authorize the proper municipal officer to grant and issue licenses, direct the manner of issuing and registering licenses, and set the fees to be paid for licenses.

(b) A license may not be issued for a period of more than one year.

(c) A license may not be assigned except as permitted by the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.034. SUSPENSION OR REVOCATION OF OCCUPATION LICENSE. (a) A judge of the municipal court, in addition to imposing a fine, may institute proceedings to suspend or revoke the license of a person if:

(1) the person is required, by law or by a municipal ordinance adopted under a law, to obtain the license from the municipality for an occupation, business, or avocation; and

(2) the judge finds the person guilty of violating a municipal ordinance relating to the occupation, business, or avocation or finds that the person has been convicted of barratry

under Section 38.12, Penal Code.

(b) For the purpose of this section, a person is convicted of barratry if a court of competent jurisdiction enters an adjudication of guilt against the person regardless of whether:

(1) the sentence is subsequently probated and the person is discharged from probation;

(2) the accusation, complaint, information, or indictment is dismissed following probation; or

(3) the person is pardoned for the offense, unless the pardon is granted expressly for subsequent proof of innocence.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 723, Sec. 6, eff. Sept. 1, 1993.

SUBCHAPTER C. REGULATION BY TYPE B GENERAL-LAW MUNICIPALITY

Sec. 215.051. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a Type B general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.052. MARKETS. The governing body of the municipality may establish markets.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. REGULATION BY HOME-RULE MUNICIPALITY

Sec. 215.071. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a home-rule municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.072. DAIRIES; SLAUGHTERHOUSES. The municipality may inspect dairies, slaughterhouses, or slaughter pens, in or outside the municipal limits, from which milk or meat is furnished to the residents of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.073. VEHICLES FOR HIRE. The municipality may license, fix the charges or fares made by, or otherwise regulate any person who owns, operates, or controls any type of vehicle used on the public streets or alleys of the municipality for carrying passengers or freight for compensation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.0735. OPERATORS OF VEHICLES. The municipality may prescribe the qualifications of an operator of a vehicle that uses the public streets in the municipality.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 3, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 215.0735 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(32), eff. Sept. 1, 1997.

Sec. 215.074. THEATERS; SHOWS; AMUSEMENTS. The municipality may regulate the location and conduct of:

(1) theaters;
(2) movie theaters;
(3) bowling alleys; and
(4) other places of public amusements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 215.075. POLICE POWER. The municipality may license any lawful business or occupation that is subject to the police power of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 216. REGULATION OF SIGNS BY MUNICIPALITIES

SUBCHAPTER A. RELOCATION, RECONSTRUCTION, OR REMOVAL OF SIGN

Sec. 216.001. LEGISLATIVE INTENT. (a) This subchapter is not intended to require a municipality to provide for the relocation,

reconstruction, or removal of any sign in the municipality, nor is it intended to prohibit a municipality from requiring the relocation, reconstruction, or removal of any sign. This subchapter is intended only to authorize a municipality to take that action and to establish the procedure by which the municipality may do so.

(b) This subchapter is not intended to require a municipality to make a cash payment to compensate the owner of a sign that the municipality requires to be relocated, reconstructed, or removed. Cash payment is established as only one of several methods from which a municipality may choose in compensating the owner of a sign.

(c) This subchapter is not intended to affect any eminent domain proceeding in which the taking of a sign is only an incidental part of the exercise of the eminent domain power.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.002. DEFINITIONS. In this subchapter:

(1) "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform.

(2) "On-premise sign" means a freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

(3) "Off-premise sign" means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.003. MUNICIPAL REGULATION. (a) Subject to the requirements of this subchapter, a municipality may require the relocation, reconstruction, or removal of any sign within its corporate limits or extraterritorial jurisdiction.

(b) Except as provided by Subsection (e), the owner of a sign that is required to be relocated, reconstructed, or removed is entitled to be compensated by the municipality for costs associated

with the relocation, reconstruction, or removal.

(c) If application of a municipal regulation would require reconstruction of a sign in a manner that would make the sign ineffective for its intended purpose, such as by substantially impairing the sign's visibility, application of the regulation is treated as the required removal of the sign for purposes of this subchapter.

(d) In lieu of paying compensation, a municipality may exempt from required relocation, reconstruction, or removal those signs lawfully in place on the effective date of the requirement.

(e) A municipality that exercises authority under this subchapter may, without paying compensation as provided by this subchapter, require the removal of an on-premise sign or sign structure not sooner than the first anniversary of the date the business, person, or activity that the sign or sign structure identifies or advertises ceases to operate on the premises on which the sign or sign structure is located. If the premises containing the sign or sign structure is leased, a municipality may not require removal under this subsection sooner than the second anniversary after the date the most recent tenant ceases to operate on the premises. The removal of a sign or sign structure as described by this subsection does not require the appointment of a board under Section 216.004.

(f) A municipality acting under Subsection (e) may agree with the owner of the sign or sign structure to remove only a portion of the sign or sign structure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(m), eff. Aug. 28, 1989; Acts 2003, 78th Leg., ch. 865, Sec. 1, eff. Sept. 1, 2003.

Sec. 216.0035. REGULATORY AUTHORITY NOT APPLICABLE TO ON-PREMISES SIGNS UNDER CERTAIN CIRCUMSTANCES. The authority granted to a municipality by this subchapter to require the relocation, reconstruction, or removal of signs does not apply to:

(1) on-premises signs in the extraterritorial jurisdiction of municipalities in a county described by Section 394.063, Transportation Code, if the circumstances described by that section occur; and

(2) on-premises signs in a municipality's extraterritorial jurisdiction in a county that borders a county described by that law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 54(e), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 482, Sec. 1, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.218, eff. Sept. 1, 1997.

Sec. 216.004. MUNICIPAL BOARD. (a) If a municipality requires the relocation, reconstruction, or removal of a sign within its corporate limits or extraterritorial jurisdiction, the presiding officer of the governing body of the municipality shall appoint a municipal board on sign control. The board must be composed of:

(1) two real estate appraisers, each of whom must be a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program;

(2) one person engaged in the sign business in the municipality;

(3) one employee of the Texas Department of Transportation who is familiar with real estate valuations in eminent domain proceedings; and

(4) one architect or landscape architect licensed by this state.

(b) A member of the board is appointed for a term of two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 951, Sec. 2, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 165, Sec. 22(47), eff. Sept. 1, 1995.

Sec. 216.005. DETERMINATION OF AMOUNT OF COMPENSATION. (a) The municipal board on sign control shall determine the amount of the compensation to which the owner of a sign that is required to be relocated, reconstructed, or removed is entitled. The determination shall be made after the owner of the sign is given the opportunity for a hearing before the board about the issues involved in the matter.

(b) In any court proceeding in which the reasonableness of compensation is at issue and the compensation is to be provided over

a period longer than one year, the court shall consider whether the duration of the period is reasonable under the circumstances.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.006. COMPENSATION FOR RELOCATED SIGN. The compensable costs for a sign that is required to be relocated include the expenses of dismantling the sign, transporting it to another site, and reerecting it. The board shall determine the compensable costs according to the standards applicable in a proceeding under Chapter 21, Property Code. In addition, the municipality shall issue to the owner of the sign an appropriate permit or other authority to operate a substitute sign of the same type at an alternative site of substantially equivalent value. Whether an alternative site is of substantially equivalent value is determined by standards generally accepted in the outdoor advertising industry, including visibility, traffic count, and demographic factors. The municipality shall compensate the owner for any increased operating costs, including increased rent, at the new location. The owner is responsible for designating an alternative site where the erection of the sign would be in compliance with the sign ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.007. COMPENSATION FOR RECONSTRUCTED SIGN. The compensable costs for a sign that is required to be reconstructed include expenses of labor and materials and any loss in the value of the sign due to the reconstruction in excess of 15 percent of that value. The board shall determine the compensable costs according to standards applicable in a proceeding under Chapter 21, Property Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.008. COMPENSATION FOR REMOVAL OF OFF-PREMISE SIGN. (a) For an off-premise sign that is required to be removed, the compensable cost is an amount computed by determining the average annual gross revenue received by the owner from the sign during the two years preceding September 1, 1985, or the two years preceding the

month in which the removal date of the sign occurs, whichever is less, and by multiplying that amount by three. If the sign has not been in existence for all of either two-year period, the average annual gross revenue for that period, for the purpose of this computation, is an amount computed by dividing 12 by the number of months that the sign has been in existence, and multiplying that result by the total amount of the gross revenue received for the period that the sign has been in existence. However, if the sign did not generate revenue for at least one month preceding September 1, 1985, this computation of compensable costs is to be made using only the average annual gross revenue received during the two years preceding the month in which the removal date of the sign occurs, and by multiplying that amount by three. In determining the amounts under this paragraph, a sign is treated as if it were in existence for the entire month if it was in existence for more than 15 days of the month and is treated as if it were not in existence for any part of the month if it was in existence for 15 or fewer days of the month.

(b) The owner of the real property on which the sign was located is entitled to be compensated for any decrease in the value of the real property. The compensable cost is to be determined by the board according to standards applicable in a proceeding under Chapter 21, Property Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.009. COMPENSATION FOR REMOVAL OF ON-PREMISE SIGN. For an on-premise sign that is required to be removed, the compensable cost is an amount computed by determining a reasonable balance between the original cost of the sign, less depreciation, and the current replacement cost of the sign, less an adjustment for the present age and condition of the sign.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.010. METHOD OF COMPENSATION. (a) To pay the compensable costs required under this subchapter, the governing body of a municipality may use only a method, or a combination of the methods, prescribed by this section.

(b) If any sign is required to be relocated or reconstructed, or an on-premise sign is required to be removed, the municipality, acting pursuant to the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code), may abate municipal property taxes that otherwise would be owed by the owner of the sign. The abated taxes may be on any real or personal property owned by the owner of the sign except residential property. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right to abatement with respect to taxes on any nonresidential property in the same taxing jurisdiction. In a municipality where tax abatement is used to pay compensable costs, the costs include reasonable interest and the abatement period may not exceed five years.

(c) The municipality may allocate to a special fund in the municipal treasury, to be known as the sign abatement and community beautification fund, all or any part of the municipal property taxes paid on signs, on the real property on which the signs are located, or on other real or personal property owned by the owner of the sign. The municipality may make payments from that fund to reimburse compensable costs to owners of signs required to be relocated, reconstructed, or removed.

(d) The municipality may provide for the issuance of sign abatement revenue bonds and use the proceeds to make payments to reimburse costs to the owners of signs within the corporate limits of such municipality that are required to be relocated, reconstructed, or removed.

(e) The municipality may pay compensable costs in cash.

(f) Except as prohibited by federal law, a municipality with a population of more than 1.9 million may pay the compensable costs to the owner of an on-premise sign by allowing the sign to remain in place for a period sufficient to recover the compensable cost of the sign as determined under Section 216.009, based on a determination by the municipal board of the average annual gross revenue as determined under Section 216.008 that would be generated by the sign in its specific location if the sign were used as an off-premise sign rather than an on-premise sign. During the period in which a sign remains in place under this subsection, the owner of the sign shall maintain the sign in compliance with all other regulations applicable to the sign, including structural regulations.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 51(a), eff. Aug. 28, 1989; Acts 2003, 78th Leg., ch. 865, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 742 (H.B. 2945), Sec. 1, eff. September 1, 2007.

Sec. 216.011. TAX APPRAISAL OF PROPERTY WITH NONCONFORMING SIGN. For each nonconforming sign, the board shall file with the appropriate property tax appraisal office the board's compensable costs value appraisal of the sign. The appraisal office shall consider the board's appraisal when the office, for property tax purposes, determines the appraised value of the real property to which the sign is attached.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.012. SPECIAL PROVISIONS FOR SIGNS UNDER SIGN ORDINANCE IN EFFECT ON JUNE 1, 1985. (a) This section applies to compensation for the required relocation, reconstruction, or removal of a sign under a municipal ordinance in effect on June 1, 1985, that provided for compensation to the sign owner under an amortization plan.

(b) For a nonconforming sign erected after September 1, 1985, or for a sign in place on that date that later is made nonconforming by an extension of or strengthening of an ordinance that was in effect on June 1, 1985, and that provided an amortization plan, the amortization period is the entire useful life of the sign. If it has not already done so, the board shall determine the entire useful life of signs by type or category, such as mono-pole signs, metal signs, and wood signs. The useful life may not be solely determined by the natural life expectancy of a sign.

(c) Compensation for the relocation, reconstruction, or removal of a sign that, on September 1, 1985, was not in compliance with the sign ordinance shall be made in accordance with the applicable procedures of Section 6, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015o, Vernon's Texas Civil Statutes), and that law is continued in effect for this purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.013. EXCEPTIONS. (a) The requirements of this subchapter do not apply to a sign that was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection.

(b) The requirements of this subchapter do not apply to a sign that, having been permitted to remain in place as a nonconforming use, is required to be removed by a municipality because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(c) For purposes of Subsection (b), a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

(d) This subchapter does not limit or restrict the compensation provisions of the highway beautification provisions contained in Chapter 391, Transportation Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(82), eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 30.219, eff. Sept. 1, 1997.

Sec. 216.014. APPEAL. (a) Any person aggrieved by a decision of the board may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed within 20 days after the date the decision is rendered by the board.

(b) On the filing of the petition, the court may issue a writ of certiorari directed to the board to review the decision of the board and shall prescribe in the writ the time within which a return must be made, which must be longer than 10 days and may be extended by the court.

(c) The board is not required to return the original papers acted on by it, but it shall be sufficient to return certified or sworn copies of the papers. The return must concisely set forth all other facts as may be pertinent and material to show the grounds of the decision appealed from and must be verified.

(d) The court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

(e) Costs may not be allowed against the board unless it appears to the court that the board acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.015. EFFECT OF PARTIAL INVALIDITY. (a) The legislature declares that it would not have enacted the following without the inclusion of Section 216.010(a), to the extent that provision excludes methods of compensation not specifically authorized by that provision:

(1) this subchapter;

(2) Section 216.902;

(3) Article 2, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (codified as Chapter 394, Transportation Code); and

(4) the amendments made to Section 3, Property Redevelopment and Tax Abatement Act (codified as Chapter 312, Tax Code) by Article 4, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985.

(b) If that exclusion of alternative methods of compensation is held invalid for any reason by a final judgment of a court of competent jurisdiction, the enactments described by Subsection (a) are void.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.220, eff. Sept. 1, 1997.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 216.901. REGULATION OF SIGNS BY HOME-RULE MUNICIPALITY. (a) A home-rule municipality may license, regulate, control, or prohibit the erection of signs or billboards by charter or ordinance.

(b) Subsection (a) does not authorize a municipality to regulate the relocation, reconstruction, or removal of a sign in violation of Subchapter A.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 216.902. REGULATION OF OUTDOOR SIGNS IN MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION. (a) A municipality may extend the provisions of its outdoor sign regulatory ordinance and enforce the ordinance within its area of extraterritorial jurisdiction as defined by Chapter 42. However, any municipality, in lieu of the regulatory ordinances, may allow the Texas Transportation Commission to regulate outdoor signs in the municipality's extraterritorial jurisdiction by filing a written notice with the commission.

(b) If a municipality extends its outdoor sign ordinance within its area of extraterritorial jurisdiction, the municipal ordinance supersedes the regulations imposed by or adopted under Chapter 394, Transportation Code.

(c) The authority granted to a municipality by this section to extend its outdoor sign ordinance does not apply to:

(1) on-premises signs in the extraterritorial jurisdiction of municipalities in a county described by Section 394.063, Transportation Code, if the circumstances described by that section occur;

(2) on-premises signs in a municipality's extraterritorial jurisdiction in a county that borders a county described by that law; and

(3) on-premises signs in the extraterritorial jurisdiction of a municipality with a population of 1.5 million or more that are located in a county that is adjacent to the county in which the majority of the land of the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(f), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 482, Sec. 2, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 165, Sec. 22(48), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.221, eff. Sept. 1, 1997.

CHAPTER 217. MUNICIPAL REGULATION OF NUISANCES AND DISORDERLY CONDUCT

SUBCHAPTER A. REGULATION BY TYPE A GENERAL-LAW MUNICIPALITY

Sec. 217.001. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a Type A general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 217.002. NUISANCE. The governing body of the municipality may:

(1) abate and remove a nuisance and punish by fine the person responsible for the nuisance;

(2) define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance; and

(3) abate in any manner the governing body considers expedient any nuisance that may injure or affect the public health or comfort.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 217.003. DISORDERLY CONDUCT. (a) The governing body of the municipality may prevent and may punish a person engaging in:

(1) trespass or breach of the peace;

(2) assault, battery, fighting, or quarreling;

(3) use of abusive, obscene, profane, or insulting language; or

(4) other disorderly conduct.

(b) The governing body may suppress or prevent any riot, affray, noise, disturbance, or disorderly assembly in any public or private place in the municipality.

(c) The governing body may restrain or prohibit the firing of firecrackers or guns, the use of a bicycle or similar conveyance, the use of a firework or similar material, or any other amusement or practice tending to annoy persons passing on a street or sidewalk.

(d) The governing body may restrain or prohibit the ringing of bells, blowing of horns, hawking of goods, or any other noise, practice, or performance directed to persons on a street or sidewalk by an auctioneer or other person for the purpose of business, amusement, or otherwise.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. REGULATION BY TYPE B GENERAL-LAW MUNICIPALITY

Sec. 217.021. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a Type B general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 217.022. NUISANCE. The governing body of the municipality shall prevent to the extent practicable any nuisance within the limits of the municipality and shall have each nuisance removed at the expense of the person who is responsible for the nuisance or who owns the property on which the nuisance exists.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. REGULATION BY HOME-RULE MUNICIPALITY

Sec. 217.041. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a home-rule municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 217.042. NUISANCE. (a) Except as provided by Subsection (c), the municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the limits.

(b) The municipality may enforce all ordinances necessary to prevent and summarily abate and remove a nuisance.

(c) The municipality may not define and prohibit as a nuisance the sale of fireworks or similar materials outside the limits of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1212 (S.B. 1593), Sec. 1, eff. September 1, 2015.

CHAPTER 218. REGULATION OF MIXED-USE AND MULTIFAMILY RESIDENTIAL USE AND DEVELOPMENT IN CERTAIN MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 218.001. DEFINITIONS. In this chapter:

(1) "Heavy industrial use" means a storage, processing, or manufacturing use:

(A) with processes using flammable or explosive materials;

(B) with hazardous conditions; or

(C) that is noxious or offensive from odors, smoke, noise, fumes, or vibrations.

(2) "Mixed-use residential," when used to describe land use or development, means the use or development, as applicable, of a site consisting of residential and nonresidential uses in which the residential uses are at least 65 percent of the total square footage of the development. The term includes the use or development of a condominium.

(3) "Multifamily residential," when used to describe land use or development, means the use or development, as applicable, of a site for three or more dwelling units within one or more buildings. The term includes the use or development of a residential condominium.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.
Added by Acts 2025, 89th Leg., R.S., Ch. 1026 (S.B. 2477), Sec. 1, eff. September 1, 2025.

Sec. 218.002. APPLICABILITY. This chapter applies only to a municipality with a population greater than 150,000 that is wholly or partly located in a county with a population greater than 300,000.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.
Added by Acts 2025, 89th Leg., R.S., Ch. 1026 (S.B. 2477), Sec. 1, eff. September 1, 2025.

Sec. 218.003. NO EFFECT ON OTHER RESTRICTIONS AND RULES. This chapter does not affect the authority of a municipality to:

(1) apply the municipality's regulations on short-term rental units to a mixed-use residential or multifamily residential development;

(2) adopt or enforce water quality protection regulations to implement or comply with water quality requirements under state or federal law, including Chapter 366, Health and Safety Code;

(3) adopt or enforce a density bonus program or other voluntary program that allows for site development standards that are

less restrictive than the standards described by this chapter; or

(4) apply the following regulations that are generally applicable to other developments in the municipality:

(A) except as otherwise provided by this chapter:

(i) sewer and water access requirements; or

(ii) building codes;

(B) stormwater mitigation requirements; or

(C) regulations related to historic preservation, including protecting historic landmarks or property in the boundaries of a local historic district.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.
Added by Acts 2025, 89th Leg., R.S., Ch. 1026 (S.B. 2477), Sec. 1, eff. September 1, 2025.

SUBCHAPTER B. ZONING AND DEVELOPMENT REGULATIONS

Sec. 218.101. MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USES ALLOWED. (a) Notwithstanding any other law and subject to Subsection (c), a municipality shall allow mixed-use residential use and development or multifamily residential use and development in a zoning classification that allows office, commercial, retail, warehouse, or mixed-use use or development as an allowed use under the classification.

(b) Notwithstanding any other law and subject to Subsection (c), a municipality may not require the change of a zoning district or land use classification or regulation or an approval of an amendment, exception, or variance to a zoning district or land use classification or regulation prior to allowing a mixed-use residential use or development or multifamily residential use or development in an area covered by a zoning classification described by Subsection (a). An amendment, exception, or variance to a zoning district or land use classification or regulation includes a special exception, zoning variance, site development variance, subdivision variance, conditional use approval, special use permit, comprehensive plan amendment, or other discretionary approval to allow a mixed-use residential use or development or multifamily residential use or development.

(c) This section does not apply to:

(1) a zoning classification that allows heavy industrial use;

(2) land located within:

(A) 1,000 feet of an existing heavy industrial use or development site; or

(B) 3,000 feet of an airport or military base; or

(3) an area designated by a municipality as a clear zone or accident potential zone.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.
Added by Acts 2025, 89th Leg., R.S., Ch. 1026 (S.B. 2477), Sec. 1, eff. September 1, 2025.

Sec. 218.102. REGULATION OF MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USE OR DEVELOPMENT. (a) Notwithstanding any other law, a municipality may not adopt or enforce an ordinance, zoning restriction, or other regulation that:

(1) imposes on a mixed-use residential or multifamily residential development:

(A) a limit on density that is more restrictive than the greater of:

(i) the highest residential density allowed in the municipality; or

(ii) 36 units per acre;

(B) a limit on building height that is more restrictive than the greater of:

(i) the highest height that would apply to an office, commercial, retail, or warehouse development constructed on the site; or

(ii) 45 feet; or

(C) a setback or buffer requirement that is more restrictive than the lesser of:

(i) a setback or buffer requirement that would apply to an office, commercial, retail, or warehouse development constructed on the site; or

(ii) 25 feet;

(2) requires a mixed-use residential or multifamily residential development to provide:

(A) more than one parking space per dwelling unit; or

(B) a multilevel parking structure;

(3) restricts the ratio of the total building floor area of a mixed-use residential or multifamily residential development in relation to the lot area of the development; or

(4) requires a multifamily residential development not located in an area zoned for mixed-use residential use to contain nonresidential uses.

(b) Notwithstanding any other law, if a municipal authority responsible for approving a building permit or other authorization required for the construction of a mixed-use residential or multifamily residential development determines that a proposed development meets municipal land development regulations in accordance with this subchapter, the municipal authority:

(1) shall administratively approve the permit or other authorization; and

(2) may not require further action by the governing body of the municipality for the approval to take effect.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.
Added by Acts 2025, 89th Leg., R.S., Ch. 1026 (S.B. 2477), Sec. 1, eff. September 1, 2025.

SUBCHAPTER C. FEES AND REGULATIONS APPLICABLE TO CONVERSION OF CERTAIN USES

Sec. 218.201. DEFINITION. In this subchapter, "permit" has the meaning assigned by Section 245.001.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.
Added by Acts 2025, 89th Leg., R.S., Ch. 1026 (S.B. 2477), Sec. 1, eff. September 1, 2025.

Sec. 218.202. APPLICABILITY. This subchapter applies only to a building or the structural components of the building that:

(1) is being used for office, retail, or warehouse use;

(2) is proposed to be converted from nonresidential occupancy to mixed-use residential or multifamily residential

occupancy for at least 65 percent of the building and at least 65 percent of each floor of the building that is fit for occupancy; and

(3) was constructed at least five years before the proposed date to start the conversion.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.

Sec. 218.203. CERTAIN REGULATIONS PROHIBITED. Notwithstanding any other law, a municipality may not, in connection with the use, development, construction, or occupancy of a building proposed to be converted to mixed-use residential or multifamily residential use, require:

(1) the preparation of a traffic impact analysis or other study relating to the effect the proposed converted building would have on traffic or traffic operations;

(2) the construction of improvements or payment of a fee in connection with mitigating traffic effects related to the proposed converted building;

(3) the provision of additional parking spaces, other than the parking spaces that already exist on the site of the proposed converted building;

(4) the extension, upgrade, replacement, or oversizing of a utility facility except as necessary to provide the minimum capacity needed to serve the proposed converted building; or

(5) a design requirement, including a requirement related to the exterior, windows, internal environment of a building, or interior space dimensions of an apartment, that is more restrictive than the applicable minimum standard under the International Building Code as adopted as a municipal commercial building code under Section 214.216.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.

Sec. 218.204. IMPACT FEE PROHIBITED. Notwithstanding any other law, a municipality may not impose an impact fee, as defined by Section 395.001, on land where a building has been converted to mixed-use residential or multifamily residential use unless the land

on which the building is located was already subject to an impact fee before a building permit related to the conversion was filed with the municipality.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.

SUBCHAPTER D. ENFORCEMENT

Sec. 218.301. CIVIL ACTION. (a) In this section, "housing organization" means a:

(1) trade or industry group organized under the laws of this state consisting of local members primarily engaged in the construction or management of housing units;

(2) nonprofit organization organized under the laws of this state that:

(A) provides or advocates for increased access or reduced barriers to housing; and

(B) has filed written or oral comments with the legislature; or

(3) nonprofit organization that is engaged in public policy research, education, and outreach that includes housing policy-related issues and advocacy.

(b) A housing organization or other person adversely affected or aggrieved by a violation of this chapter may bring an action for declaratory or injunctive relief against a municipality.

(c) The court shall award court costs and reasonable attorney's fees to a claimant who prevails in an action brought under this section.

(d) Notwithstanding any other law, including Chapter 15, Civil Practice and Remedies Code, an action brought under this section must be brought in a county in which all or part of the real property that is the subject of the action is located.

(e) Notwithstanding any other law, the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over an action brought under this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 2, eff. September 1, 2025.

CHAPTER 229. MISCELLANEOUS REGULATORY AUTHORITY OF MUNICIPALITIES

SUBCHAPTER A. REGULATION OF FIREARMS, KNIVES, AND EXPLOSIVES

Sec. 229.001. FIREARMS; AIR GUNS; ARCHERY EQUIPMENT; KNIVES; EXPLOSIVES. (a) Notwithstanding any other law, including Section 43.002 of this code and Chapter 251, Agriculture Code, a municipality may not adopt or enforce regulations that:

(1) relate to:

(A) the transfer, possession, wearing, carrying, ownership, storage, transportation, licensing, or registration of firearms, air guns, archery equipment, knives, ammunition, or firearm or air gun supplies or accessories;

(B) commerce in firearms, air guns, archery equipment, knives, ammunition, or firearm or air gun supplies or accessories; or

(C) the discharge of a firearm, air gun, or archery equipment at a sport shooting range; or

(2) require an owner of a firearm or archery equipment to obtain liability insurance coverage for damages resulting from negligent or wilful acts involving the use of the firearm or archery equipment.

(a-1) An ordinance, resolution, rule, or policy adopted or enforced by a municipality, or an official action, including in any legislative, police power, or proprietary capacity, taken by an employee or agent of a municipality in violation of this section is void.

(b) Subsection (a) does not affect the authority a municipality has under another law to:

(1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2) regulate the discharge of firearms, air guns, or archery equipment within the limits of the municipality, other than at a sport shooting range;

(3) except as provided by Subsection (b-1), adopt or enforce a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance;

(4) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;

(5) regulate the carrying of an air gun, archery equipment,

or firearm, other than a handgun carried by a person not otherwise prohibited by law from carrying a handgun, at a:

(A) public park;

(B) public meeting of a municipality, county, or other governmental body;

(C) political rally, parade, or official political meeting; or

(D) nonfirearms-related school, college, or professional athletic event;

(6) regulate the carrying of a firearm by a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, in accordance with Section 411.209, Government Code;

(7) regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption;

(8) regulate the carrying of an air gun by a minor on:

(A) public property; or

(B) private property without consent of the property owner; or

(9) except as provided by Subsection (d-1), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

(b-1) The exception provided by Subsection (b)(3) does not apply if the ordinance or regulation is designed or enforced to effectively restrict or prohibit the manufacture, sale, purchase, transfer, or display of archery equipment, firearms, firearm accessories, or ammunition that is otherwise lawful in this state.

(c) The exception provided by Subsection (b)(5) does not apply:

(1) if the firearm, air gun, or archery equipment is in or is carried to or from an area designated for use in a lawful hunting, fishing, or other sporting event and the firearm, air gun, or archery equipment is of the type commonly used in the activity; or

(2) to a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.

(d) Nothing in this section may be construed to authorize the seizure or confiscation of any firearm, air gun, archery equipment, knife, ammunition, or firearm or air gun supplies or accessories from

an individual who is lawfully carrying or possessing the firearm, air gun, archery equipment, knife, ammunition, or firearm or air gun supplies or accessories.

(d-1) The exception provided by Subsection (b)(9) does not authorize a municipality to regulate an employee's carrying or possession of a firearm in violation of Subchapter G, Chapter 52, Labor Code.

(e) In this section:

(1) "Air gun" means any gun that discharges a pellet, BB, or paintball by means of compressed air, gas propellant, or a spring.

(2) "Ammunition" means fixed cartridge ammunition, shotgun shells, individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzle-loading firearms, or any propellant used in firearms or ammunition.

(2-a) "Archery equipment" means a long bow, recurved bow, compound bow, or crossbow. The term includes an arrow and a component part or accessory of an arrow, bow, or crossbow.

(3) "Firearm or air gun accessory" means a device specifically designed or adapted to:

(A) enable the wearing or carrying by a person, or the storage or mounting in or on a conveyance, of a firearm or air gun; or

(B) be inserted into or affixed to a firearm or air gun to enable, alter, or improve the functioning or capabilities of the firearm.

(4) "Knife" has the meaning assigned by Section 46.01, Penal Code.

(5) "Sport shooting range" has the meaning assigned by Section 250.001.

(f) The attorney general may bring an action in the name of the state to obtain a temporary or permanent injunction against a municipality adopting a regulation in violation of this section. The attorney general may recover reasonable expenses incurred in obtaining an injunction under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(g) This section does not limit the enforceability of any state or federal law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1995, 74th Leg., ch. 229, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 10.07, eff. Sept. 1, 1997. Renumbered from Sec. 215.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(10), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 18 (S.B. 112), Sec. 5, eff. April 27, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 624 (S.B. 766), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 598 (S.B. 987), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1210 (S.B. 1400), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 700 (H.B. 905), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1164 (H.B. 3231), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 16, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 998 (H.B. 1500), Sec. 5, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 595 (H.B. 3137), Sec. 1, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 238 (S.B. 2284), Sec. 1, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 238 (S.B. 2284), Sec. 2, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 238 (S.B. 2284), Sec. 3, eff. September 1, 2025.

Sec. 229.002. REGULATION OF DISCHARGE OF WEAPON. A municipality may not apply a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality after September 1, 1981, if the firearm or other weapon is:

(1) a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:

(A) on a tract of land of 10 acres or more and more than 150 feet from a residence or occupied building located on

another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

(2) a center fire or rim fire rifle or pistol of any caliber discharged:

(A) on a tract of land of 50 acres or more and more than 300 feet from a residence or occupied building located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

Added by Acts 2005, 79th Leg., Ch. 18 (S.B. 734), Sec. 4, eff. May 3, 2005.

Sec. 229.003. REGULATION OF DISCHARGE OF WEAPON BY CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality located wholly or partly in a county:

(1) with a population of one million or more;

(2) in which all or part of a municipality with a population of one million or more is located; and

(3) that is located adjacent to a county with a population of 2.5 million or more.

(b) Notwithstanding Section 229.002, a municipality may not apply a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality after September 1, 1981, if the firearm or other weapon is:

(1) a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:

(A) on a tract of land of 10 acres or more and:

(i) more than 1,000 feet from:

(a) the property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment; and

(b) the property line of a school, hospital, or commercial day-care facility;

(ii) more than 600 feet from:

(a) the property line of a residential

subdivision; and

(b) the property line of a multifamily residential complex; and

(iii) more than 150 feet from a residence or occupied building located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract;

(2) a center fire or rim fire rifle or pistol of any caliber discharged:

(A) on a tract of land of 50 acres or more and:

(i) more than 1,000 feet from:

(a) the property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment; and

(b) the property line of a school, hospital, or commercial day-care facility;

(ii) more than 600 feet from:

(a) the property line of a residential subdivision; and

(b) the property line of a multifamily residential complex; and

(iii) more than 300 feet from a residence or occupied building located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

(3) discharged at a sport shooting range, as defined by Section 250.001, in a manner not reasonably expected to cause a projectile to cross the boundary of a tract of land.

Added by Acts 2009, 81st Leg., R.S., Ch. 1230 (S.B. 1742), Sec. 1, eff. June 19, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 81, eff. September 1, 2011.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 145, eff. September 1, 2023.

Sec. 229.004. REGULATION OF DISCHARGE OF WEAPON BY CERTAIN

MUNICIPALITIES. (a) This section applies only to a municipality located in a county in which the majority of the population of two or more municipalities with a population of 300,000 or more are located.

(b) Notwithstanding Section 229.002, a municipality may not apply a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality on or before September 1, 1981, if the firearm or other weapon is:

(1) a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:

(A) on a tract of land of 100 acres or more and more than 150 feet from a residence or occupied building located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

(2) a center fire or rim fire rifle or pistol of any caliber discharged:

(A) on a tract of land of 100 acres or more and more than 300 feet from a residence or occupied building located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 306 (H.B. 2127), Sec. 1, eff. June 17, 2011.

SUBCHAPTER B. REGULATION OF OUTDOOR LIGHTING

Sec. 229.051. DEFINITIONS. In this subchapter, "major astronomical observatory" and "outdoor lighting" have the meanings assigned by Section 240.031.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. 2857), Sec. 1, eff. January 1, 2012.

Sec. 229.052. APPLICABILITY. (a) This subchapter applies to a municipality located in a county any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory.

(b) This subchapter does not apply to:

(1) outdoor lighting in existence or under construction on January 1, 2012; or

(2) the installation, maintenance, repair, or replacement of outdoor lighting owned or operated by an electric utility as defined by Section 31.002, Utilities Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. 2857), Sec. 1, eff. January 1, 2012.

Sec. 229.053. REGULATION OF OUTDOOR LIGHTING. (a) The governing body of a municipality by ordinance shall regulate the installation and use of outdoor lighting.

(b) An ordinance adopted under this section must be designed to protect against the use of outdoor lighting in a way that interferes with scientific astronomical research of an observatory.

(c) In the ordinance, the governing body may:

(1) require that a permit be obtained from the municipality before the installation and use of certain types of outdoor lighting in a regulated area;

(2) establish a fee in an amount to cover the costs of administrating the issuance of the permit;

(3) prohibit the use of a type of outdoor lighting that is incompatible with the effective use of an observatory;

(4) establish requirements for the shielding of outdoor lighting; and

(5) regulate the times during which certain types of outdoor lighting may be used.

(d) The governing body may apply more stringent standards for areas in which the use of outdoor lighting has a greater impact on observatory activities.

(e) The governing body may adopt an ordinance under this section only after conducting a public hearing on the proposed ordinance. The governing body shall give at least two weeks' public notice of the hearing.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. 2857), Sec. 1, eff. January 1, 2012.

Sec. 229.054. REGULATION OF SUBDIVISIONS. (a) The governing

body of a municipality by ordinance shall establish standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

(b) The governing body may not approve a subdivision plat unless the plat provides that outdoor lighting will comply with standards adopted under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. 2857), Sec. 1, eff. January 1, 2012.

Sec. 229.055. ENFORCEMENT; PENALTY. (a) A municipality may sue in any court to enjoin a violation of this subchapter.

(b) A person who violates an ordinance adopted under this subchapter commits an offense. An offense under this section is a Class C misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. 2857), Sec. 1, eff. January 1, 2012.

SUBCHAPTER C. REGULATION OF SOLAR ENERGY AND BACKUP ENERGY DEVICES

Sec. 229.101. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section:

(1) "Municipally owned utility" has the meaning assigned by Section 11.003, Utilities Code.

(2) "Small commercial customer" has the meaning assigned by Section 39.202(o), Utilities Code.

(3) "Solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) A municipality may not prohibit or restrict the installation of a solar energy device by a residential or small commercial customer except to the extent:

(1) a property owner's association may prohibit the installation under Sections 202.010(d)(1) through (7), Property Code; or

(2) the interconnection guidelines and interconnection agreement of a municipally owned utility serving the customer's service area, the rules of the Public Utility Commission of Texas, or the protocols of an independent organization certified under Section 39.151, Utilities Code, limit the installation of solar energy

devices due to reliability, power quality, or safety of the distribution system.

Added by Acts 2021, 87th Leg., R.S., Ch. 561 (S.B. 398), Sec. 2, eff. September 1, 2021.

Sec. 229.102. REGULATION OF RESIDENTIAL ENERGY BACKUP SYSTEMS. (a) In this section, "residential energy backup system" means a backup energy system installed at a residential property that is capable of providing no more than 50 kilowatts of electricity to the residence or has a storage capacity of no more than 100 kilowatt hours.

(b) A municipality may not adopt or enforce an ordinance, rule, or other measure that would regulate the installation or inspection of a residential energy backup system.

(c) This section does not limit the authority of a municipally owned utility, as defined by Section 11.003, Utilities Code, to regulate the installation or inspection of a residential energy backup system within the utility's service area.

Added by Acts 2025, 89th Leg., R.S., Ch. 356 (S.B. 1252), Sec. 4, eff. September 1, 2025.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 229.901. AUTHORITY TO REGULATE ANIMAL BUSINESSES. (a) A municipality may not adopt, enforce, or maintain an ordinance or rule that restricts, regulates, limits, or otherwise impedes a business involving the breeding, care, treatment, or sale of animals or animal products, including a veterinary practice, or the business's transactions if the person operating that business holds a license for the business that is issued by the federal government or a state.

(b) Except as provided by this subsection, a municipality may not adopt, enforce, or maintain an ordinance or rule that restricts, regulates, limits, or otherwise impedes the retail sale of dogs or cats. A municipality may enforce or maintain an ordinance or rule adopted before April 1, 2023, that restricts, regulates, limits, or otherwise impedes the retail sale of dogs or cats until the state adopts statewide regulation for the retail sale of dogs or cats, as applicable.

Added by Acts 2023, 88th Leg., R.S., Ch. 899 (H.B. 2127), Sec. 12, eff. September 1, 2023.

Sec. 229.902. AUTHORITY TO REGULATE HOME-BASED BUSINESSES. (a) In this section:

(1) "Business" has the meaning assigned by Section 1.002, Business Organizations Code.

(2) "Home-based business" means a business that is operated:

(A) from a residential property;

(B) by the owner or tenant of the property; and

(C) for the purpose of:

(i) manufacturing, providing, or selling a lawful good; or

(ii) providing a lawful service.

(3) "No-impact home-based business" means a home-based business that:

(A) has at any time on the property where the business is operated a total number of employees and clients or patrons of the business that does not exceed the municipal occupancy limit for the property;

(B) does not generate on-street parking or a substantial increase in traffic through the area;

(C) operates in a manner in which none of its activities are visible from a street; and

(D) does not substantially increase noise in the area or violate a municipal noise ordinance, regulation, or rule.

(b) The governing body of a municipality may not adopt or enforce an ordinance, regulation, or other measure that:

(1) prohibits the operation of a no-impact home-based business;

(2) requires a person that operates a no-impact home-based business or that owns the property where the business is operated to obtain a license, permit, or other approval to operate the business; or

(3) requires a person that operates a home-based business or that owns the property where the business is operated to:

(A) rezone the property for a non-residential use; or

(B) install a fire sprinkler protection system if the

residence where the business is operated consists only of:

(i) a single-family detached residential structure; or

(ii) a multi-family residential structure with not more than two residential units.

(c) Subject to Subsection (b), the governing body of a municipality may:

(1) require that a home-based business be:

(A) in compliance with federal, state, and local law, including:

(i) a municipal fire and building code; and

(ii) a municipal regulation related to:

(a) health and sanitation;

(b) transportation or traffic control;

(c) solid or hazardous waste; or

(d) pollution and noise control;

(B) compatible with the residential use of the property where the business is located; and

(C) secondary to the use of the property as a residential dwelling; and

(2) limit or prohibit the operation of a home-based business that:

(A) sells alcohol or illegal drugs;

(B) is a structured sober living home; or

(C) is a sexually oriented business as defined by Section 243.002.

(d) This section does not prohibit:

(1) a person from enforcing a rule or deed restriction imposed by a homeowners' association or by other private agreement; or

(2) a municipality from adopting or enforcing an ordinance regulating the operation of a short-term rental unit.

Added by Acts 2025, 89th Leg., R.S., Ch. 336 (H.B. 2464), Sec. 1, eff. June 12, 2025.

SUBTITLE B. COUNTY REGULATORY AUTHORITY
CHAPTER 231. COUNTY ZONING AUTHORITY
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 231.001. ADOPTION OF REGULATION OR BOUNDARY INCLUDES AMENDMENT OR OTHER CHANGE. A reference in this chapter to the adoption of a zoning or other regulation or a zoning district boundary includes the amendment, repeal, or other change of a regulation or boundary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. ZONING ON PADRE ISLAND

Sec. 231.011. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the part of Padre Island located in Cameron and Willacy counties is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings on islands frequented as resort areas tend to become congested and to be used in ways that interfere, to the detriment of the public health, safety, morals, and general welfare, with the proper use of the areas as places of recreation.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county parks in Cameron and Willacy counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.012. AREAS SUBJECT TO REGULATION. This subchapter applies to the areas of Padre Island located in Cameron or Willacy County and located:

(1) outside a municipality but within two miles of a publicly owned park or recreational development; or

(2) within two miles of a beach, wharf, or bathhouse used by at least 500 persons annually.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.013. ZONING REGULATIONS GENERALLY. The commissioners

court of Cameron County or of Willacy County may, for the areas subject to this subchapter in its respective county, regulate:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.014. COMPLIANCE WITH COMPREHENSIVE PLAN. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets and roads;

(2) secure safety from fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the overcrowding of land;

(6) avoid undue concentration of population;

(7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; and

(8) assist in developing the island into parks, playgrounds, and recreational areas for the residents of this state and other states and nations.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.015. DISTRICTS. (a) The commissioners court may divide the area in its county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the island.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.016. PROCEDURES GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) The commissioners courts shall establish procedures for adopting and enforcing zoning regulations and zoning district boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in a newspaper of general circulation in the county.

(b) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from those lots, or from the street frontage of the opposite lots.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.017. ZONING COMMISSION. (a) To exercise the powers authorized by this subchapter, the commissioners court shall appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. The commission must consist of seven members, each of whom must be a resident of the county. If the county has a board of

park commissioners, the commissioners court may appoint the board to serve as the zoning commission.

(b) The commission shall choose a chairman who must be a commission member. The chairman serves in that capacity for a term set by the commission. The commission may at any time choose for a particular meeting or occasion an acting chairman as necessary from among its members. The commission may employ a secretary and acting secretary and other technical or clerical personnel.

(c) A member of the commission is not entitled to compensation for service on the commission but may be entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not hold a public hearing or take action until it receives the final report of the zoning commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to:

(1) each owner of affected property or to the person who renders the property for county taxes; and

(2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.

(f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.018. BOARD OF ADJUSTMENT. (a) The commissioners court may provide for the appointment of a board of adjustment. In the zoning regulations adopted under this subchapter, the commissioners court may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning regulations that are consistent with the general purpose and intent of the regulations and in accordance with any applicable rules contained in the regulations.

(b) A board of adjustment must consist of five members to be appointed for terms of two years. The appointing authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The board shall adopt rules in accordance with any order adopted under this subchapter. Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(d) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.019. AUTHORITY OF BOARD. (a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or a zoning regulation;

(2) hear and decide special exceptions to the terms of a zoning regulation when the regulation requires the board to do so; and

(3) authorize in specific cases a variance from the terms of a zoning regulation if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the regulation would result in unnecessary hardship, and so that the spirit of the regulation is observed and substantial justice is done.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose

the board has the same authority as the administrative official.

(c) The concurring vote of four members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning regulation; or

(3) authorize a variation in a zoning regulation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.020. APPEAL TO BOARD. (a) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the county or of a municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may only be stayed by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.021. JUDICIAL REVIEW OF BOARD DECISION. (a) Any of the following persons may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

(1) a person aggrieved by a decision of the board;

(2) a taxpayer; or

(3) an officer, department, board, or bureau of the county or of the municipality.

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time within which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.022. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter, an order adopted under this subchapter, or a zoning regulation. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the commissioners court. The commissioners court may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.023. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter.

(c) This subchapter, an order adopted under this subchapter, or a zoning regulation does not apply to the location, construction,

maintenance, or use of central office buildings used by a person engaging in providing telephone service to the public or equipment used in connection with those buildings or as part of the telephone system, as necessary to furnish telephone service to the public.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. ZONING NEAR AMISTAD RECREATION AREA

Sec. 231.031. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the part of Val Verde County that surrounds Amistad Recreation Area is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.032. AREAS SUBJECT TO REGULATION. This subchapter applies to that part of Val Verde County on the lakeward side of the boundaries described by Section 2, Chapter 250, Acts of the 62nd Legislature, Regular Session, 1971. That description is continued in effect for the purpose of the reference made by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.033. ZONING REGULATIONS GENERALLY. The commissioners court of Val Verde County may regulate in areas subject to this subchapter:

(1) the height, number of stories, and size of buildings

and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.034. COMPLIANCE WITH COMPREHENSIVE PLAN. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets and roads;

(2) secure safety from fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the overcrowding of land;

(6) avoid undue concentration of population;

(7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; and

(8) assist in developing the area into parks, playgrounds, and recreational areas for the residents of this state and other states and nations.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.035. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with

reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.036. ZONING COMMISSION. (a) The commissioners court shall appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. The commission must consist of an ex officio chairman and four additional members.

(b) The commissioners court shall appoint a chairman who must be a public official in Val Verde County. The chairman serves a two-year term of office. The other members serve four-year terms. In making the initial appointments of the other members, the commissioners court shall designate the members for staggered terms of one, two, three, and four years. In the event of resignation, end of term, or a vacancy, the court shall appoint new members. The court shall fill a vacancy in the office of chairman by appointment. A person is not eligible for appointment to, or service on, the commission after the person's 70th birthday. The zoning commission may employ a secretary, an acting secretary, and other technical or clerical personnel.

(c) A member of the commission is entitled to compensation in the amount of $10 a month except that the chairman of the zoning commission is not entitled to compensation under this section if the chairman receives compensation in the chairman's capacity as a public official in the county. A member of the commission may also be entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not take action or hold a public hearing until it has received the final report of the commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to:

(1) each owner of affected property or to the person who renders the property for county taxes; and

(2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.

(f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.037. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) A zoning regulation or zoning district boundary proposed by the zoning commission is not effective until it is adopted by the commissioners court after a public hearing. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) The commissioners court by a majority vote may amend or reject a regulation or boundary proposed by the zoning commission.

(c) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from those lots, or from the street frontage of the opposite lots.

(d) After the commissioners court receives the protest, the court shall hold a public hearing. The court shall publish notice in the manner provided by Subsection (a).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.038. SPECIAL EXCEPTION. (a) Any of the following persons may petition the commissioners court for a special exception to a zoning regulation adopted by the commissioners court:

(1) a person aggrieved by the regulation; or

(2) any officer, department, board, or bureau of the county or of a municipality in the county.

(b) The commissioners court shall hold a public hearing on the petition and shall publish notice of the hearing before the 15th day before the date of the hearing in a newspaper of general circulation in the county.

(c) Except as provided by Subsection (d), the commissioners court may grant a petition for a special exception by majority vote.

(d) If a proposed special exception to a zoning regulation is protested in accordance with this subsection, the proposed special exception must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be presented at the hearing and signed by the owners of at least 20 percent of:

(1) the lots covered by the proposed exception; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed exception extending 200 feet from those lots, or from the street frontage of the opposite lots.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.039. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter or a zoning regulation. An offense under this subsection is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day that a violation occurs constitutes a separate offense. Trial shall be in the district court.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful action or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, other structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.040. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of a lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter or to restrict the right of a landowner, acting in the owner's behalf, to construct improvements for agricultural purposes or to otherwise use the land for agricultural purposes except the commissioners court may take those actions to restrict or prohibit any commercial agricultural enterprise such as a feed lot.

(c) This subchapter, an order adopted under this subchapter, or a zoning regulation does not apply to the location, construction, maintenance, or use of central office buildings or equipment used by a person engaged in providing telephone service to the public.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. MILITARY ZONES

Sec. 231.051. DEFINITION. In this subchapter, "military establishment" means a base, camp, station, yard, or section base of the United States Navy or the United States Coast Guard.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.052. ESTABLISHMENT OF MILITARY ZONE. (a) The

commissioners court of a county in which a military establishment is located may create a restricted military zone adjacent to the military establishment. The court shall set forth the boundaries of the zone in its minutes. A military zone may not extend more than one mile from the boundary line of the military establishment.

(b) Appropriate signs must be posted along each road or way leading into the zone to indicate that the zone is a restricted area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.053. REGULATIONS. (a) The commissioners court may adopt regulations relating to the speed and parking of motor vehicles and the taking of photographs in the zone.

(b) The court may authorize the civilian or military guards at a military establishment to enforce the regulations for the zone for that military establishment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.054. PENALTY. A person commits an offense if the person violates a regulation adopted under this subchapter. An offense under this section is a misdemeanor punishable by a fine of not less than $100 or by confinement in county jail for a term of not less than 10 days or more than two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. ZONING AROUND CERTAIN LAKES

Sec. 231.071. PURPOSE. The powers granted under this subchapter are for the purpose of protecting the public health, safety, welfare, and morals.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.072. DEFINITIONS. In this subchapter:

(1) "Lake" means an inland body of standing water, including a reservoir formed by impounding the water of a river or

creek but not including an impoundment of salt water or brackish water, that:

(A) has a storage capacity of more than one million acre-feet; and

(B) is owned in whole or part by a political subdivision of this state, including a special-purpose district or authority.

(2) "Lake area" means the area within 5,000 feet of where the shoreline of a lake would be if the lake were filled to its storage capacity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.073. LAKE COVERED BY SUBCHAPTER. This subchapter applies only to a lake that has a construction completion date after June 12, 1985.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.074. ZONING AND BUILDING CONSTRUCTION ORDINANCES. (a) The commissioners court of a county may adopt ordinances, not inconsistent with state law, that apply only to the lake area in the county and that regulate:

(1) the height, number of stories, or size of buildings;

(2) the percentage of a lot that may be occupied;

(3) the size of yards and other spaces;

(4) population density;

(5) the location and use of buildings and land for commercial, industrial, residential, or other purposes; and

(6) building construction standards.

(b) The commissioners court may not regulate the use, design, or placement of public utility buildings, land, or facilities.

(c) The commissioners court may not regulate for siting or zoning purposes new manufactured or industrialized housing that is constructed to preemptive state or federal building standards in any manner that is different from regulation of site-built housing.

(d) The commissioners court shall adopt rules as necessary to carry out this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.075. LOCAL OPTION ELECTION. (a) This subchapter applies only to a county in which a majority of the voters voting on the question approve this subchapter's grant of authority to the county. The commissioners court shall order and hold an election if the court is petitioned to do so under Section 231.076. The commissioners court may not order and hold the election on its own motion.

(b) If an election is held, the ballot shall be printed to provide for voting for or against the proposition: "Granting authority to the county to adopt zoning and building construction ordinances for the areas around lakes."

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.076. PETITION; VERIFICATION. (a) A petition for the local option election must include a statement worded substantially as provided by this subsection and located on each page of the petition preceding the space reserved for signatures: "This petition is to request that an election be held in (name of county) to authorize the county to adopt zoning and building construction ordinances for the areas around lakes."

(b) To be valid, a petition must be signed by registered voters of the county in a number equal to at least 10 percent of the number of votes received by all candidates for governor in the county in the most recent gubernatorial general election. The petition must also include each signer's current voter registration number, printed name, and residence address, including zip code.

(c) Each signer must enter beside the signature the date on which the petition is signed. A signature may not be counted if the signer fails to include the date or if the date of signing is before the 90th day before the date the petition is submitted to the commissioners court.

(d) Within five days after the date a petition is received in the office of the commissioners court, the commissioners court shall submit the petition for verification to the county clerk, who shall determine whether the petition meets the requirements imposed by this

section. Within 30 days after the date the petition is submitted to the county clerk for verification, the county clerk shall certify in writing to the commissioners court whether the petition is valid. If the county clerk determines that the petition is invalid, the clerk shall state the reasons for that determination.

(e) If the county clerk certifies that a petition is valid, the commissioners court shall order the election to be held on the first uniform election date authorized by Section 41.001, Election Code, that occurs after the 35th day after the date the court receives the county clerk's certification.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.077. LAKE PLANNING COMMISSION. (a) A lake planning commission is established for each lake area in a county subject to this subchapter and is composed of:

(1) three residents of the county who own land in the county, appointed by the county judge;

(2) one resident of each commissioners precinct in the county, appointed by the county commissioner for that precinct; and

(3) the mayor of each municipality that includes any part of that lake area in the county.

(b) Except for the initial appointed members, the appointed members of a commission are appointed for terms of two years expiring on February 1 of each odd-numbered year. The initial appointed members are appointed for terms expiring on the first February 1 of an odd-numbered year occurring after the date of their appointment.

(c) A commission annually shall elect a chairman and vice-chairman from its members. The commissioners court shall employ staff for the use of the commission in performing its functions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.078. COMMISSION DUTIES; RULES. (a) The commissioners court may assign a lake planning commission any duties that the court considers appropriate and that are not inconsistent with this subchapter.

(b) The commissioners court shall adopt rules governing the operations of the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.079. COMMISSION STUDIES; REPORTS; HEARINGS. (a) At the request of the commissioners court, a lake planning commission shall, or on its own initiative a commission may, conduct studies of the lake area over which it has jurisdiction and prepare reports to advise the commissioners court about the boundaries of the original zoned districts, other regulations for the lake area, and changes to those districts or regulations.

(b) Before the commission may prepare a report, it must hold a public hearing at which members of the public may present testimony about any subject to be included in the commission's report. The commission shall give notice of the hearing as required by the commissioners court.

(c) If a report will advise the commissioners court about proposed action regarding the zoning classification of a parcel of land, the commission shall send written notice to each landowner, as listed on the county tax rolls, whose land is directly affected by the proposed action or whose land is located within 200 feet of land directly affected. The notice must inform the landowner of the time and place of the public hearing at which the landowner may present testimony to the commission about the proposed action and must be deposited in the United States mail before the 10th day before the date of the hearing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.080. ADOPTION OF ORDINANCE AFTER RECEIPT OF REPORT. The commissioners court may adopt a proposed ordinance only after the court receives a lake planning commission's report prepared under Section 231.079 relating to the proposed ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.081. SPECIAL EXCEPTIONS. (a) The commissioners court may grant a special exception to an ordinance adopted under this subchapter if the court finds that the grant of the special exception will not be contrary to the public interest and that a literal

enforcement of the ordinance would result in an unnecessary hardship.

(b) The commissioners court shall adopt procedures governing applications, notice, hearings, and other matters relating to the grant of a special exception.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.082. CONFLICT WITH OTHER ACTION. If an ordinance adopted under this subchapter conflicts with an action of a special-purpose district or authority that owns the lake or reservoir or an action of a municipality that applies to a lake area in the county, the municipal or special-purpose district action controls to the extent of the conflict.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 231.083. ENFORCEMENT. (a) The county attorney or other prosecuting attorney representing the county in the district court may file an action to enjoin the violation or threatened violation of an ordinance adopted under this subchapter. The court may grant appropriate relief.

(b) If an ordinance adopted under this subchapter defines an offense, an offense under that order is a Class C misdemeanor. The offense shall be prosecuted in the same manner as an offense defined by state law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER F. ZONING AROUND LAKE TAWAKONI AND LAKE RAY ROBERTS

Sec. 231.101. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) those parts of a county that surround Lake Tawakoni and Lake Ray Roberts will be frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that will be frequented for resort or recreational purposes will tend to become congested and to

be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging recreation.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.102. DEFINITION. In this subchapter "lake area" means the area within 5,000 feet of the project boundary line for Lake Tawakoni or Lake Ray Roberts, which is defined as the 447 foot elevation take line for Lake Tawakoni and the 645 foot elevation take line for Lake Ray Roberts.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52 (a), eff. Aug. 28, 1989.

Sec. 231.103. LAKES COVERED BY SUBCHAPTER. This subchapter applies only to Lake Tawakoni and Lake Ray Roberts.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.104. ZONING AND BUILDING CONSTRUCTION ORDINANCES. (a) The commissioners court of a county may adopt ordinances, not inconsistent with state law, that apply only to the lake area in the county and that regulate:

(1) the height, number of stories, or size of buildings in the area;

(2) the percentage of a lot that may be occupied;

(3) the size of yards and other spaces;

(4) population density;

(5) the location and use of buildings and land for commercial, industrial, residential, or other purposes; and

(6) building construction standards.

(b) The commissioners court may not adopt an ordinance in conflict with Chapter 2154, Occupations Code, or with any rule adopted under that chapter. An ordinance adopted in conflict with

that chapter is void.

(c) This Act does not authorize a commissioners court to issue any order or regulation in conflict with a municipal ordinance or state agency rule pertaining to the regulation of billboards or outdoor advertising. An order or regulation issued in conflict with a municipal ordinance or state agency rule is void.

(d) The commissioners court may not regulate for siting or zoning purposes new manufactured or industrialized housing that is constructed to preemptive state or federal building standards in any manner that is different from regulation of site-built housing.

(e) The commissioners court shall adopt rules as necessary to carry out this subchapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.823, eff. Sept. 1, 2001.

Sec. 231.105. LOCAL OPTION ELECTION. (a) This subchapter applies only to a county in which a majority of the voters voting on the question approve this subchapter's grant of authority to the county. The commissioners court shall order and hold an election if the court is petitioned to do so under Section 231.106. The commissioners court may not order and hold the election on its own motion.

(b) If an election is held, the ballot shall be printed to provide for voting for or against the proposition: "Granting authority to the county to adopt zoning and building construction ordinances for the areas in the county around (name of the appropriate lake)." Each qualified voter of each affected precinct is entitled to vote in the election.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.106. PETITION; VERIFICATION. (a) A petition for a local option election must include a statement worded substantially as follows and located on each page of the petition preceding the space reserved for signatures: "This petition is to request that an election be held in (name of county) to authorize the county to adopt zoning and building construction ordinances for the areas in the

county around (name of the appropriate lake)."

(b) To be valid, a petition must be signed by registered voters of the county in a number equal to at least 10 percent of the number of votes received by all candidates for governor in each affected precinct in the most recent gubernatorial general election. The petition must also include each signer's current voter registration number, printed name, and residence address, including zip code.

(c) Each signer must enter beside the signature the date on which the petition is signed. A signature may not be counted if the signer fails to include the date or if the date of signing is before the 90th day before the date the petition is submitted to the commissioners court.

(d) Within five days after the date a petition is received in the office of the commissioners court, the commissioners court shall submit the petition for verification to the county clerk, who shall determine whether the petition meets the requirements imposed by this section. Within 30 days after the date the petition is submitted to the county clerk for verification, the county clerk shall certify in writing to the commissioners court whether the petition is valid. If the county clerk determines that the petition is invalid, the clerk shall state the reasons for that determination.

(e) If the county clerk certifies that a petition is valid, the commissioners court shall order the election to be held on the first uniform election date authorized by Section 41.001, Election Code, that occurs after the date the court receives the county clerk's certification and that allows for compliance with the time requirements prescribed by Chapter 3, Election Code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.107. LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the lake area in the county and is composed of:

(1) three residents of the affected precincts who own land in the county, appointed by the county judge of the county;

(2) one resident of each commissioners precinct that is affected, appointed by the county commissioner for that precinct, and if only one precinct is affected, the commissioner shall appoint two; and

(3) the mayor of each municipality the territory or extraterritorial jurisdiction of which includes any part of the lake area in the county.

(b) Except for the initial appointed members, the appointed members of the commission are appointed for terms of two years expiring on February 1 of each odd-numbered year. The initial appointed members are appointed for terms expiring on the first February 1 of an odd-numbered year occurring after the date of their appointment.

(c) The commission annually shall elect a chairman and vice-chairman from its members. The commissioners court shall employ staff for the use of the commission in performing its functions.

(d) A mayor serving on the commission may designate another person to serve in place of the mayor at one or more commission meetings.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 6, Sec. 1, eff. Sept. 1, 1997.

Sec. 231.108. COMMISSION DUTIES; RULES. (a) The commissioners court may assign the lake planning commission any duties that the court considers appropriate and that are not inconsistent with this subchapter.

(b) The commissioners court shall adopt rules governing the operations of the commission.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.109. COMMISSION STUDIES; REPORTS; HEARINGS. (a) At the request of the commissioners court, the lake planning commission shall, or on its own initiative the commission may, conduct studies of the lake area in the county and prepare reports to advise the commissioners court about the boundaries of the original zoned districts, other regulations for the lake area, and changes to those districts or regulations.

(b) Before the commission may prepare a report, it must hold a public hearing at which members of the public may present testimony about any subject to be included in the commission's report. The commission shall give notice of the hearing as required by the

commissioners court.

(c) If a report will advise the commissioners court about proposed action regarding the zoning classification of a parcel of land, the commission shall send written notice to each landowner, as listed on the county tax rolls, whose land is directly affected by the proposed action or whose land is located within 200 feet of land directly affected. The notice must inform the landowner of the time and place of the public hearing at which the landowner may present testimony to the commission about the proposed action and must be deposited in the United States mail before the 10th day before the date of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.110. ADOPTION OF ORDINANCE AFTER RECEIPT OF REPORT. The commissioners court may adopt a proposed ordinance only after the court receives the lake planning commission's report prepared under Section 231.109 relating to the proposed ordinance.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.111. SPECIAL EXCEPTIONS. (a) The lake planning commission may recommend, subject to approval by the commissioners court, a special exception to an ordinance adopted under this subchapter if the commission finds that the grant of the special exception will not be contrary to the public interest and that a literal enforcement of the ordinance would result in an unnecessary hardship.

(b) The commission shall adopt procedures governing applications, notice, hearings, and other matters relating to the grant of a special exception.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.112. CONFLICT BETWEEN ORDINANCES. If an ordinance adopted under this subchapter conflicts with an action of a municipality that applies to any part of the lake area located in the county and the municipality, the municipal action controls to the

extent of the conflict.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

Sec. 231.113. ENFORCEMENT. (a) The county attorney or other prosecuting attorney representing the county in the district court is entitled to appropriate injunctive relief to prevent a violation or threatened violation of an ordinance adopted under this subchapter from continuing or occurring.

(b) If an ordinance adopted under this subchapter defines an offense, the offense is a Class C misdemeanor. The offense shall be prosecuted in the same manner as an offense defined by state law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 52(a), eff. Aug. 28, 1989.

SUBCHAPTER G. ZONING AROUND LAKE ALAN HENRY, LAKE COOPER, LAKE RALPH HALL, POST LAKE, AND LOWER BOIS D'ARC CREEK RESERVOIR

Sec. 231.131. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas that surround Lake Alan Henry, Lake Cooper, Lake Ralph Hall, Post Lake, and Lower Bois d'Arc Creek Reservoir are or will be frequented for recreational purposes by residents from every part of the state;

(2) development in the area, including the construction of on-site water treatment systems or other sources of contamination, may impact the water quality in the lakes and the reservoir;

(3) orderly development and use of the area is of concern to the entire state; and

(4) buildings in the area that will be frequented for resort or recreational purposes will tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging recreation.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 63, Sec. 2, eff. May 8, 1991;

Acts 2003, 78th Leg., ch. 977, Sec. 2, eff. June 20, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 13 (S.B. 525), Sec. 2, eff. April 29, 2011.

Sec. 231.132. AREAS SUBJECT TO REGULATION. (a) This subchapter applies to:

(1) those parts of Garza County located within three miles of the high water marks established for Lake Alan Henry and Post Lake except land located in Garza County and owned by the White River Municipal Water District;

(2) those parts of Kent County located within three miles of the high water marks established for Lake Alan Henry;

(3) the area within 10,000 feet of where the shoreline of Lake Cooper would be if the lake were filled to its storage capacity;

(4) the area within 5,000 feet of where the shoreline of Lake Ralph Hall would be if the lake were filled to its storage capacity; and

(5) the area within 5,000 feet of where the shoreline of the Lower Bois d'Arc Creek Reservoir would be if the reservoir were filled to its storage capacity.

(b) The areas described by Subsection (a) are subject to regulation under this subchapter regardless of whether the construction of an affected lake or reservoir is complete.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 13, Sec. 4, eff. April 29, 2011.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.
Amended by Acts 1991, 72nd Leg., ch. 63, Sec. 3, eff. May 8, 1991; Acts 2001, 77th Leg., ch. 1125, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 997, Sec. 3, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1309, Sec. 2.01, eff. June 21, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 13 (S.B. 525), Sec. 3, eff. April 29, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 13 (S.B. 525), Sec. 4, eff. April 29, 2011.

Sec. 231.133. ZONING REGULATIONS GENERALLY. (a) The commissioners court of a county in which an area subject to this subchapter is located may regulate in that area:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

(b) The commissioners court may not regulate for siting or zoning purposes new manufactured or industrialized housing, constructed to preemptive state or federal building standards, in any manner that is different from regulation of site-built housing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 63, Sec. 4, eff. May 8, 1991.

Sec. 231.134. COMPLIANCE WITH COMPREHENSIVE PLAN. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets and roads;

(2) secure safety from fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the overcrowding of land;

(6) avoid undue concentration of population;

(7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; or

(8) assist in developing the area into parks, playgrounds, and recreational areas for the residents of this state and other states and nations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.135. DISTRICTS. (a) The commissioners court may

divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.136. ZONING COMMISSION. (a) The commissioners court shall appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. The commission must consist of an ex officio chairman and four additional members.

(b) The commissioners court shall appoint a chairman who must be a public official in the county. The chairman serves a two-year term of office. The other members serve four-year terms. In making the initial appointments of the other members, the commissioners court shall designate the members for staggered terms of one, two, three, and four years. In the event of resignation, end of term, or a vacancy, the court shall appoint new members. The court shall fill a vacancy in the office of chairman by appointment. The zoning commission may employ a secretary, an acting secretary, and other technical or clerical personnel.

(c) A member of the commission is entitled to compensation in the amount of $10 a month except that the chairman of the zoning commission is not entitled to compensation under this section if the chairman receives compensation in the chairman's capacity as a public official in the county. A member of the commission may also be entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The zoning commission shall make a preliminary report and

hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not take action or hold a public hearing until it has received the final report of the commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to:

(1) each owner of affected property or to the person who renders the property for county taxes; and

(2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.

(f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 63, Sec. 5, eff. May 8, 1991.

Sec. 231.137. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) A zoning regulation or zoning district boundary proposed by the zoning commission is not effective until it is adopted by the commissioners court after a public hearing. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) The commissioners court by a majority vote may amend or reject a regulation or boundary proposed by the zoning commission.

(c) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from those lots or from the street frontage of the opposite lots.

(d) After the commissioners court receives the protest, the court shall hold a public hearing. The court shall publish notice in

the manner provided by Subsection (a).

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.138. SPECIAL EXCEPTION. (a) Any of the following persons may petition the commissioners court for a special exception to a zoning regulation adopted by the commissioners court:

(1) a person aggrieved by the regulation; or

(2) any officer, department, board, or bureau of the county or of a municipality in the county.

(b) The commissioners court shall hold a public hearing on the petition and shall publish notice of the hearing before the 15th day before the date of the hearing in a newspaper of general circulation in the county.

(c) Except as provided by Subsection (d), the commissioners court may grant a petition for a special exception by majority vote.

(d) If a proposed special exception to a zoning regulation is protested in accordance with this subsection, the proposed special exception must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be presented at the hearing and signed by the owners of at least 20 percent of:

(1) the lots covered by the proposed exception; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed exception extending 200 feet from those lots or from the street frontage of the opposite lots.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.139. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter or a zoning regulation. An offense under this subsection is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day that a violation occurs constitutes a separate offense. Trial shall be in the district court.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a

building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful action or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, other structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.140. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of a lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter or restrict the right of a landowner, acting in the owner's behalf, to construct improvements for agriculture and ranching operations or to otherwise use the land for agriculture and ranching operations. Agriculture and ranching operations include cultivating the soil; producing crops for human food, animal feed, planting seed, or fiber; floriculture; viticulture; horticulture; raising or keeping livestock or poultry; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure. The commissioners court may take those actions to restrict or prohibit any commercial agricultural enterprise, such as a commercial feed lot, that are reasonably necessary to protect the public health, safety, peace, morals, and general welfare from the dangers of explosion, flooding, vermin, insects, physical injury,

contagious disease, contamination of water supplies, radiation, storage of toxic materials, or other hazards.

(c) This subchapter, an order adopted under this subchapter, or a zoning regulation does not apply to the location, construction, maintenance, or use of central office buildings or equipment used by a person engaged in providing telephone service to the public.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 53(a), eff. Aug. 28, 1989.

Sec. 231.141. REGULATION OF SAM WAHL RECREATION AREA. (a) The Commissioners Court of Garza County may zone for commercial or residential development the area adjacent to Lake Alan Henry known as the Sam Wahl Recreation Area.

(b) Notwithstanding this chapter, Chapter 253, or other law, a municipality owning property in the Sam Wahl Recreation Area may develop, change the use of, or dispose of the property.

Added by Acts 1999, 76th Leg., ch. 109, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER I. ZONING AND OTHER REGULATION IN EL PASO MISSION TRAIL HISTORICAL AREA

Sec. 231.171. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the El Paso Mission Trail Historical Area will be frequented for recreational and educational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that will be frequented for recreational, cultural, or educational purposes will tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation, education, and historic preservation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare, protecting and preserving places and areas of historical, cultural, or architectural importance and significance, and encouraging recreation and education.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.172. AREA SUBJECT TO REGULATION. This subchapter applies to the area of land in El Paso County, to be known as the El Paso Mission Trail Historical Area, described by Section 2, House Bill No. 2561, Acts of the 72nd Legislature, Regular Session, 1991.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.173. ZONING AND OTHER REGULATIONS GENERALLY. The commissioners court of El Paso County may regulate in the El Paso Mission Trail Historical Area:

(1) the height, number of stories, and size of buildings or other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes;

(6) the construction, reconstruction, alteration, or razing of buildings or other structures of historical, cultural, or architectural significance;

(7) the placement of water and sewage facilities, parks, and other public requirements;

(8) the style of and construction standards applying to buildings and other structures; and

(9) the location, size, style, and other characteristics of signs.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.174. COMPLIANCE WITH COMPREHENSIVE PLAN. The regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets and roads;

(2) secure safety from fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the overcrowding of land;

(6) avoid undue concentration of population;

(7) facilitate the adequate provision of transportation, water, sewers, parks, and other public requirements; or

(8) assist in developing the area into parks, playgrounds, recreational areas, and educational areas and in preserving areas of historical, cultural, or architectural importance or significance for the residents of this state and other states and nations.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.175. DISTRICTS. (a) The commissioners court may divide the El Paso Mission Trail Historical Area into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, removal, alteration, repair, or use of buildings, other structures, or land.

(b) The regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings, protecting historic landmarks and structures, and encouraging the most appropriate use of land throughout the area.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.176. COMMISSION. (a) To exercise the powers authorized by this subchapter, the commissioners court shall appoint a commission. If the county has a planning commission or historic commission, the commissioners court may designate either of those commissions to serve as the commission required by this section. The commission shall recommend boundaries for the original districts and appropriate regulations for each district.

(b) The commission shall elect a chairman from its members. The chairman serves in that capacity for a term set by the commission. The commission may at any time choose for a particular meeting or occasion an acting chairman as necessary from its members.

In the event of resignation, end of term, or a vacancy, the commissioners court shall appoint new members. The commission shall fill a vacancy in the office of chairman by election. The commission may employ a secretary, an acting secretary, and other technical or clerical personnel.

(c) A member of the commission is not entitled to compensation but is entitled to expenses actually incurred while serving on the commission as provided by order of the commissioners court.

(d) The commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the commissioners court. The commissioners court may not take final action or hold a public hearing until it has received the final report of the commission.

(e) Before the 10th day before the hearing date, written notice of each public hearing before the commission on a proposed change in a classification in the district shall be sent to:

(1) each owner of affected property or to the person who renders the property for county taxes; and

(2) each owner of property that is located within 200 feet of property affected by the change or to the person who renders the property for county taxes.

(f) The notice may be served by depositing it, postage paid and properly addressed, in the United States mail.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.177. PROCEDURES GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) The commissioners court shall establish procedures for adopting and enforcing regulations and district boundaries. A regulation or district boundary is not effective until it is adopted by the commissioners court after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) The commissioners court by a majority vote may amend or reject a regulation or boundary proposed by the commission.

(c) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change

must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the commissioners court. The protest must be written and signed by the owners of at least 20 percent of either:

(1) the area of the lots covered by the proposed change; or

(2) the lots immediately adjacent to the rear of the lots covered by the proposed change and extending 200 feet from those lots or from the street frontage of the opposite lots.

(d) After the commissioners court receives the protest, the court shall hold a public hearing. The court shall publish notice in the manner provided by Subsection (a).

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.178. BOARD OF ADJUSTMENT. (a) The commissioners court may provide for the appointment of a board of adjustment. In the regulations adopted under this subchapter, the commissioners court may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the regulations that are consistent with the general purpose and intent of the regulations and in accordance with any applicable rules contained in the regulations.

(b) A board of adjustment must consist of five members to be appointed for staggered terms of two years. The appointing authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The board shall adopt rules in accordance with any order adopted under this subchapter. Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(d) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or indicate that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public

records.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.179. AUTHORITY OF BOARD. (a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or a regulation adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a regulation adopted under this subchapter when the regulation requires the board to do so; and

(3) authorize in specific cases a variance from the terms of a regulation adopted under this subchapter if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the regulation would result in unnecessary hardship, and so that the spirit of the regulation is observed and substantial justice is done.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(c) The concurring vote of four members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a regulation adopted under this subchapter; or

(3) authorize a variation in a regulation adopted under this subchapter.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.180. APPEAL TO BOARD. (a) Any of the following persons may appeal to the board of adjustment a decision made by an

administrative official:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the county or of a municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by board rule. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.181. JUDICIAL REVIEW OF BOARD DECISION. (a) Any of the following persons may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

(1) a person aggrieved by a decision of the board;

(2) a taxpayer; or

(3) an officer, department, board, or bureau of the county or of the municipality.

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's

decision. The writ must indicate the time within which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. The court may not assess costs against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.182. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter or an order or a regulation adopted under this subchapter.

(b) A person commits an offense if the person violates this subchapter or an order or a regulation adopted under this subchapter. An offense under this subsection is a Class B misdemeanor. Each day that a violation occurs constitutes a separate offense. Trial shall be in a county court.

(c) A person who violates this subchapter or an order or a regulation adopted under this subchapter is liable to the county for a civil penalty in an amount not to exceed $1,000 for each day the violation exists. The appropriate attorney representing the county

in civil actions may file a civil action in a court of competent jurisdiction to recover the civil penalty. If the appropriate attorney for the county prevails in the civil action, the person shall reimburse the attorney for the costs of the civil action, including court costs and attorney's fees. In determining the amount of the penalty, the court shall consider the seriousness of the violation. A penalty recovered under this subsection shall be deposited in the county treasury to the credit of the general fund.

(d) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, razed, or maintained or if a building, other structure, or land is used in violation of this subchapter or an order or a regulation adopted under this subchapter, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent or remove the unlawful action or use, including an unlawful erection, construction, reconstruction, alteration, repair, conversion, razing, or maintenance;

(2) enjoin, restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

Sec. 231.183. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If a regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of a lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

(b) The commissioners court may require the removal, destruction, or change of any structure or use of any property that does not conform to an order or a regulation adopted under this subchapter only if:

(1) the court permits the owner's investment in the

structure or property to be amortized over a period of time determined by the court; or

(2) the court determines the nonconforming structure or property has been permanently abandoned.

(c) This subchapter or an order or a regulation adopted under this subchapter does not apply to the location, construction, maintenance, or use of central office buildings or equipment used by a person engaged in providing telephone service to the public.

(d) This subchapter does not authorize the commissioners court to require the removal or destruction of property that exists at the time the court implements this subchapter or restrict the right of a landowner, acting in the owner's behalf, to construct improvements for agriculture and ranching operations or to otherwise use the land for agriculture and ranching operations. Agriculture and ranching operations include cultivating the soil; producing crops for human food, animal feed, planting seed, or fiber; floriculture; viticulture; horticulture; raising or keeping livestock or poultry; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure. The commissioners court may take those actions to restrict or prohibit any commercial agricultural enterprise, such as a commercial feed lot, that are reasonably necessary to protect the public health, safety, peace, morals, and general welfare from the dangers of explosion, flooding, vermin, insects, physical injury, contagious disease, contamination of water supplies, radiation, storage of toxic materials, or other hazards.

Added by Acts 1991, 72nd Leg., ch. 755, Sec. 1, eff. June 16, 1991.

SUBCHAPTER J. ZONING AROUND LAKE SOMERVILLE

Sec. 231.201. DEFINITIONS. In this subchapter:

(1) "Affected county" means Burleson, Milam, Lee, or Washington County.

(2) "Lake area" means the area within 5,000 feet of the project boundary line for Lake Somerville.

Added by Acts 1997, 75th Leg., ch. 1450, Sec. 1, eff. Sept. 1, 1997.

Sec. 231.202. LAKE SOMERVILLE PLANNING COMMISSION. (a) A lake

planning commission is established for the lake area in Burleson, Milam, Lee, and Washington counties and is composed of:

(1) one resident of each affected county, appointed by the county judge of that county; and

(2) the presiding officer of the commission appointed by the county judge of Burleson County.

(b) Except for the initial appointed members, the appointed members of the commission are appointed for terms of two years expiring on February 1 of each odd-numbered year. The initial appointed members are appointed for terms expiring on the first February 1 of an odd-numbered year occurring after the date of their appointment.

(c) The commissioners courts of the affected counties may employ staff for the use of the commission in performing its functions.

Added by Acts 1997, 75th Leg., ch. 1450, Sec. 1, eff. Sept. 1, 1997.

Sec. 231.203. COMMISSION STUDIES; REPORTS; HEARINGS. (a) At the request of the commissioners court of an affected county, the lake planning commission shall, or on its own initiative the commission may, conduct studies of the lake area in that county and prepare reports to advise the commissioners court about matters affecting the lake area in that county, including the need for zoning regulations in the lake area in that county.

(b) Before the commission may prepare a report, it must hold a public hearing at which members of the public may present testimony about any subject to be included in the commission's report. The commission shall give notice of the hearing as required by the commissioners court of the affected county.

Added by Acts 1997, 75th Leg., ch. 1450, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER K. DEVELOPMENT REGULATIONS IN HOOD COUNTY

Sec. 231.221. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) all of Hood County is located within the watershed that drains into Lake Granbury and the Brazos River;

(2) the area that surrounds Lake Granbury and the Brazos

River in Hood County is or will be frequented for recreational purposes by residents from every part of the state;

(3) orderly development of the area and the watershed is of concern to the entire state; and

(4) without adequate development regulations, the area and the watershed will be developed in ways that endanger and interfere with the proper use of that area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of:

(1) promoting the public health, safety, peace, morals, and general welfare;

(2) encouraging recreation; and

(3) safeguarding and preventing the pollution of the state's rivers and lakes.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.222. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated areas of Hood County.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.223. DEVELOPMENT REGULATIONS GENERALLY. The Commissioners Court of Hood County may regulate:

(1) the percentage of a lot that may be occupied or developed;

(2) population density;

(3) the size of buildings;

(4) the location, design, construction, extension, and size of streets and roads;

(5) the location, design, construction, extension, size, and installation of water and wastewater facilities, including the requirements for connecting to a centralized water or wastewater system;

(6) the location, design, construction, extension, size, and installation of drainage facilities and other required public facilities;

(7) the location, design, and construction of parks,

playgrounds, and recreational areas; and

(8) the abatement of harm resulting from inadequate water or wastewater facilities.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.224. COMPLIANCE WITH COUNTY PLAN. Development regulations must be:

(1) adopted in accordance with a county plan for growth and development of the county; and

(2) coordinated with the comprehensive plans of municipalities located in the county.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.225. DISTRICTS. (a) The commissioners court may divide the unincorporated area of the county into districts of a number, shape, and size the court considers best for carrying out this subchapter.

(b) Development regulations may vary from district to district.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.226. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) A development regulation adopted under this subchapter is not effective until it is adopted by the commissioners court after a public hearing. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) The commissioners court may establish or amend a development regulation only by an order passed by a majority vote of the full membership of the court.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.227. DEVELOPMENT COMMISSION. (a) The commissioners

court may appoint a development commission to assist in the implementation and enforcement of development regulations adopted under this subchapter.

(b) The development commission must consist of an ex officio chairman who must be a public official in Hood County and four additional members.

(c) The development commission is advisory only and may recommend appropriate development regulations for the county.

(d) The members of the development commission are subject to the same requirements relating to conflicts of interest that are applicable to the commissioners court under Chapter 171.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.228. SPECIAL EXCEPTION. (a) A person aggrieved by a development regulation adopted under this subchapter may petition the commissioners court or the development commission, if the commissioners court has established a development commission, for a special exception to a development regulation adopted by the commissioners court.

(b) The commissioners court shall adopt procedures governing applications, notice, hearings, and other matters relating to the grant of a special exception.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.229. ENFORCEMENT; PENALTY. (a) The commissioners court may adopt orders to enforce this subchapter or an order or development regulation adopted under this subchapter.

(b) A person commits an offense if the person violates this subchapter or an order or development regulation adopted under this subchapter. An offense under this subsection is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day that a violation occurs constitutes a separate offense. Trial shall be in the justice court.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 958 (H.B. 3464), Sec. 1, eff.

September 1, 2009.

Sec. 231.230. COOPERATION WITH MUNICIPALITIES. The commissioners court by order may enter into agreements with any municipality located in the county to assist in the implementation and enforcement of development regulations adopted under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

Sec. 231.231. CONFLICT WITH OTHER LAWS. If a development regulation adopted under this subchapter imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

Added by Acts 1999, 76th Leg., ch. 1227, Sec. 1, eff. June 18, 1999.

SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of counties exercising the powers of a Type A municipality located within 25,000 feet of:

(1) the project boundary line for Falcon Lake;

(2) the Rio Grande River; and

(3) tributaries and arroyos leading to Falcon Lake or to the Rio Grande River.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1054 (H.B. 4607), Sec. 1, eff. September 1, 2009.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is comprised of:

(1) four residents of Zapata County, with one resident from each of the county commissioner precincts, appointed by that precinct's commissioner; and

(2) a person, who shall serve as the commission's presiding officer, appointed by the county judge of Zapata County.

(b) Except as provided by Subsection (c), the members of the commission shall be appointed for two-year terms that expire February 1 of each odd-numbered year.

(c) The terms of the initial members of the commission expire on February 1st of the first February in an odd-numbered year following their appointment.

(d) The commissioners court of Zapata County may employ staff for the commission to use in performing the commission's functions.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At the request of the commissioners court of Zapata County, the lake planning commission shall, or on the commission's own initiative, the

commission may, conduct studies of the area subject to this subchapter and prepare reports to advise the commissioners court about matters affecting that area, including any need for zoning regulations in that area.

(b) Before the commission may prepare a report, the commission must hold a public hearing in which members of the public may offer testimony regarding any subject to be included in the commission's report. The commission shall provide notice of the hearing as required by the commissioners court.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.255. ZONING REGULATIONS. After receiving a report from the lake planning commission under Section 231.254, the commissioners court of Zapata County may adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.256. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

Sec. 231.257. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter, an order adopted under this subchapter, or a zoning regulation. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the commissioners court. The commissioners court may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Added by Acts 2007, 80th Leg., R.S., Ch. 797 (S.B. 63), Sec. 2, eff. June 15, 2007.

SUBCHAPTER M. REGULATION OF COTTAGE FOOD PRODUCTION OPERATIONS

Sec. 231.281. DEFINITIONS. In this subchapter, "cottage food

production operation" and "home" have the meanings assigned by Section 437.001, Health and Safety Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. 970), Sec. 8, eff. September 1, 2013.

Sec. 231.282. CERTAIN ZONING REGULATIONS PROHIBITED. A county zoning ordinance may not prohibit the use of a home for cottage food production operations.

Added by Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. 970), Sec. 8, eff. September 1, 2013.

Sec. 231.283. ACTION FOR NUISANCE OR OTHER TORT. This subchapter does not affect the right of a person to bring a cause of action under other law against an individual for nuisance or another tort arising out of the individual's use of the individual's home for cottage food production operations.

Added by Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. 970), Sec. 8, eff. September 1, 2013.

CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS

SUBCHAPTER A. SUBDIVISION PLATTING REQUIREMENTS IN GENERAL

Sec. 232.001. PLAT REQUIRED. (a) The owner of a tract of land located outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to lay out:

(1) a subdivision of the tract, including an addition;

(2) lots; or

(3) streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use.

(a-1) A division of a tract under Subsection (a) includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

(b) To be recorded, the plat must:

(1) describe the subdivision by metes and bounds;

(2) locate the subdivision with respect to an original corner of the original survey of which it is a part; and

(3) state the dimensions of the subdivision and of each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.

(c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

(d) The plat must be filed and recorded with the county clerk of the county in which the tract is located.

(e) The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

(f) The commissioners court may require a plat application submitted for approval to include a digital map that is compatible with other mapping systems used by the county and that georeferences the subdivision plat and related public infrastructure using the Texas Coordinate Systems adopted under Section 21.071, Natural Resources Code. A digital map required under this subsection may be required only in a format widely used by common geographic information system software. A requirement adopted under this subsection must provide for an exemption from the requirement if the owner of the tract submits with the plat application an acknowledged statement indicating that the digital mapping technology necessary to submit a map that complies with this subsection was not reasonably accessible.

(g) A plat is considered filed on the date the applicant submits the plat, along with a completed plat application and the application fees and other requirements prescribed by or under this subchapter, to:

(1) the commissioners court; or

(2) the county authority responsible for approving plats.

(h) The commissioners court or the county authority responsible for approving plats may not require an analysis, study, document, agreement, or similar requirement to be included in or as part of an application for a plat, development permit, or subdivision of land that is not explicitly required by state law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.05, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 422, Sec. 8, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 979, Sec. 29, eff. June 16, 1995; Acts 1999, 76th Leg., ch. 129, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 550 (H.B. 2033), Sec. 1, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 1, eff. September 1, 2023.

Sec. 232.0012. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to restrict a county from establishing a submittal calendar to be used by an applicant to facilitate compliance with the approval process described by Sections 232.0025, 232.0026, 232.0027, and 232.0028.

Added by Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 2, eff. September 1, 2023.

Sec. 232.0013. CHAPTER-WIDE PROVISION RELATING TO REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION. The authority of a county under this chapter relating to the regulation of plats or subdivisions in the extraterritorial jurisdiction of a municipality is subject to any applicable limitation prescribed by an agreement under Section 242.001 or by Section 242.002.

Added by Acts 2003, 78th Leg., ch. 523, Sec. 7, eff. June 20, 2003.

Sec. 232.0015. EXCEPTIONS TO PLAT REQUIREMENT. (a) To determine whether specific divisions of land are required to be platted, a county may define and classify the divisions. A county need not require platting for every division of land otherwise within the scope of this subchapter.

(b) Except as provided by Section 232.0013, this subchapter does not apply to a subdivision of land to which Subchapter B or G applies.

(c) A county may not require the owner of a tract of land

located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

(2) the land is to be used primarily for agricultural use, as defined by Section 1-d, Article VIII, Texas Constitution, or for farm, ranch, wildlife management, or timber production use within the meaning of Section 1-d-1, Article VIII, Texas Constitution.

(d) If a tract described by Subsection (c) ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, the platting requirements of this subchapter apply.

(e) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into four or fewer parts and does not lay out a part of the tract described by Section 232.001(a)(3) to have a plat of the subdivision prepared if each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code. If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the platting requirements of this subchapter apply.

(f) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) all of the lots of the subdivision are more than 10 acres in area; and

(2) the owner does not lay out a part of the tract described by Section 232.001(a)(3).

(g) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts and does not lay out a part of the tract described by Section 232.001(a)(3) to have a plat of the subdivision prepared if all the lots are sold to veterans through the Veterans' Land Board program.

(h) The provisions of this subchapter shall not apply to a subdivision of any tract of land belonging to the state or any state agency, board, or commission or owned by the permanent school fund or any other dedicated funds of the state unless the subdivision lays

out a part of the tract described by Section 232.001(a)(3).

(i) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) the owner of the land is a political subdivision of the state;

(2) the land is situated in a floodplain; and

(3) the lots are sold to adjoining landowners.

(j) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two parts to have a plat of the subdivision prepared if:

(1) the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

(2) one new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of this chapter.

(k) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

(2) all parts are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 3.04, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 979, Sec. 3, eff. June 16, 1995; Acts 1999, 76th Leg., ch. 129, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 523, Sec. 8, eff. June 20, 2003.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 2, eff. September 1, 2025.

Sec. 232.002. APPROVAL BY COUNTY REQUIRED. (a) The commissioners court of the county in which the land is located must approve, by an order entered in the minutes of the court, a plat required by Section 232.001. The commissioners court may refuse to approve a plat if it does not meet the requirements prescribed by or

under this chapter or if any bond required under this chapter is not filed with the county.

(b) The commissioners court may not approve a plat unless the plat and other documents have been prepared as required by Section 232.0035, if applicable.

(c) If no portion of the land subdivided under a plat approved under this section is sold or transferred before January 1 of the 51st year after the year in which the plat was approved, the approval of the plat expires, and the owner must resubmit a plat of the subdivision for approval. A plat resubmitted for approval under this subsection is subject to the requirements prescribed by this chapter at the time the plat is resubmitted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.04, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 884, Sec. 1, eff. June 14, 2001.

Sec. 232.0021. PLAT APPLICATION FEE. (a) The commissioners court may impose an application fee to cover the cost of the county's review of a subdivision plat and inspection of street, road, and drainage improvements described by the plat.

(b) The fee may vary based on the number of proposed lots in the subdivision, the acreage described by the plat, the type or extent of proposed street and drainage improvements, or any other reasonable criteria as determined by the commissioners court.

(c) The owner of the tract to be subdivided must pay the fee at the time directed by the county before the county conducts a review of the plat.

(d) The fee is subject to refund under Section 232.0025(i).

Added by Acts 2003, 78th Leg., ch. 301, Sec. 9, eff. Sept. 1, 2003.

Sec. 232.0022. DELEGATION OF APPROVAL RESPONSIBILITY. (a) The commissioners court of a county or the court's designee may designate to one or more officers or employees of the county the authority to approve, approve with conditions, or disapprove a plat.

(b) An applicant has the right to appeal to the commissioners court or the court's designee if the designated person or persons disapprove a plat.

Added by Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 2, eff. September 1, 2023.

Sec. 232.0023. APPROVAL PROCEDURE: APPLICABILITY. The plat application approval procedures under this subchapter apply to a county regardless of whether the county has entered into an interlocal agreement, including an interlocal agreement between a municipality and county under Section 242.001(d).

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 8, eff. September 1, 2019.

Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF PLATS. (a) The commissioners court of a county or a person designated by the commissioners court shall issue a written list of all documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement authorized under this section or other applicable law. An application submitted to the commissioners court or the person designated by the commissioners court that contains all documents and other information on the written list is considered complete. The commissioners court shall post and continuously maintain the most current version of the list on the county's Internet website.

(b) If a person submits a plat application to the commissioners court that does not include all of the documentation or other information required by Subsection (a), the commissioners court or the county authority responsible for approving plats shall, not later than the 10th business day after the date the commissioners court receives the application, notify the applicant of the missing documents or other information. The commissioners court shall allow an applicant to timely submit the missing documents or other information.

(c) An application is considered complete when all documentation or other information required by Subsection (a) is received. Acceptance by the commissioners court or the county authority responsible for approving plats of a completed plat application with the documentation or other information required by

Subsection (a) shall not be construed as approval of the documentation or other information.

(d) Except as provided by Subsection (f), the commissioners court or the county authority responsible for approving plats shall approve, approve with conditions, or disapprove a plat application not later than the 30th day after the date the completed application is received by the commissioners court or the county authority. An application is approved by the commissioners court or the county authority unless the application is disapproved within that period and in accordance with Section 232.0026.

(d-1) Repealed by Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 8, eff. September 1, 2023.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 12, eff. September 1, 2019.

(f) The 30-day period under Subsection (d):

(1) for a purpose related to Chapter 2007, Government Code, may be extended for a period not to exceed 30 days, if:

(A) requested and agreed to in writing by the applicant and approved by the commissioners court or the county authority responsible for approving plats; or

(B) Chapter 2007, Government Code, requires the county to perform a takings impact assessment in connection with the plat application; or

(2) for a purpose unrelated to Chapter 2007, Government Code, may be extended for one or more periods, not to exceed 30 days, if requested and agreed to in writing by the applicant and approved by the commissioners court or the county authority.

(f-1) The 30-day period under Subsection (d) applies only to a decision wholly within the control of the commissioners court or the county authority responsible for approving plats.

(g) The commissioners court or the county authority responsible for approving plats shall make the determination under Subsection (f)(1) of whether the 30-day period will be extended not later than the 20th day after the date a completed plat application is received by the commissioners court or the county authority.

(h) The commissioners court or the county authority responsible for approving plats may not require an applicant to waive the time limits or approval procedure contained in this subchapter.

(i) If the commissioners court or the county authority responsible for approving plats fails to approve, approve with

conditions, or disapprove a plat application as required by this subchapter:

(1) the commissioners court shall refund the greater of the unexpended portion of any application fee or deposit or 50 percent of an application fee or deposit that has been paid;

(2) the application is granted by operation of law;

(3) the applicant may apply to a district court in the county where the tract of land is located for a writ of mandamus to compel the commissioners court to issue documents recognizing the plat application's approval;

(4) the applicant shall recover reasonable attorney's fees and court costs incurred in bringing an action under Subdivision (3) if the applicant prevails; and

(5) the county may recover reasonable attorney's fees and court costs incurred in an action brought under Subdivision (3) if the county prevails and the court finds the action is frivolous.

Added by Acts 1999, 76th Leg., ch. 129, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 10, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 12, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 3, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 4, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 8, eff. September 1, 2023.

Sec. 232.0026. APPROVAL PROCEDURE: CONDITIONAL APPROVAL OR DISAPPROVAL REQUIREMENTS. (a) A commissioners court or county authority responsible for approving plats that conditionally approves or disapproves of a plat application under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or the reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.

(b) Each condition or reason specified in the written

statement:

(1) must:

(A) be directly related to the requirements of this subchapter; and

(B) include a citation to the law, including a statute or order, that is the basis for the conditional approval or disapproval, if applicable; and

(2) may not be arbitrary.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 11, eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 5, eff. September 1, 2023.

Sec. 232.0027. APPROVAL PROCEDURE: APPLICANT RESPONSE TO CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional approval or disapproval of a plat application under Section 232.0026, the applicant may submit to the commissioners court or county authority responsible for approving plats that conditionally approved or disapproved the application a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The commissioners court or county authority may not establish a deadline for an applicant to submit the response.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 11, eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 6, eff. September 1, 2023.

Sec. 232.0028. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL OF RESPONSE. (a) A commissioners court or county authority responsible for approving plats that receives a response under Section 232.0027 shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat application not later than the 15th day after the date the response was submitted under Section 232.0027.

(b) A commissioners court or county authority responsible for

approving plats that conditionally approves or disapproves a plat application following the submission of a response under Section 232.0027:

(1) must comply with Section 232.0026; and

(2) may disapprove the application only for a specific condition or reason provided to the applicant for the original application under Section 232.0026.

(c) A commissioners court or county authority responsible for approving plats that receives a response under Section 232.0027 shall approve a previously conditionally approved or disapproved plat application if the applicant's response adequately addresses each condition for the conditional approval or each reason for the disapproval.

(d) A previously conditionally approved or disapproved plat application is approved if:

(1) the applicant filed a response that meets the requirements of Subsection (c); and

(2) the commissioners court or county authority responsible for approving plats that received the response does not disapprove the application on or before the date required by Subsection (a) and in accordance with Section 232.0026.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 11, eff. September 1, 2019.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 6, eff. September 1, 2023.

Sec. 232.00285. DEVELOPMENT PLAN REVIEW. (a) In this section, "development plan" includes a preliminary plat, preliminary subdivision plan, subdivision construction plan, site plan, general plan, land development application, or site development plan.

(b) Unless explicitly authorized by another law of this state, a county may not require a person to submit a development plan during the plat approval process required by this subchapter. If a county is authorized under another law of this state to require approval of a development plan, the county must comply with the approval procedures under this subchapter during the approval process.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 11,

eff. September 1, 2019.

Sec. 232.0029. JUDICIAL REVIEW OF DISAPPROVAL. In a legal action challenging a disapproval of a plat application under this subchapter, the county has the burden of proving by clear and convincing evidence that the disapproval meets the requirements of this subchapter or any applicable case law. The court may not use a deferential standard.

Added by Acts 2019, 86th Leg., R.S., Ch. 951 (H.B. 3167), Sec. 11, eff. September 1, 2019.

Sec. 232.003. SUBDIVISION REQUIREMENTS. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

(1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when;

(7) require that the owner of the tract to be subdivided execute a good and sufficient bond in the manner provided by Section

232.004;

(8) adopt reasonable specifications that provide for drainage in the subdivision to:

(A) efficiently manage the flow of stormwater runoff in the subdivision; and

(B) coordinate subdivision drainage with the general storm drainage pattern for the area; and

(9) require lot and block monumentation to be set by a registered professional surveyor before recordation of the plat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 3.04, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 129, Sec. 4, eff. Sept. 1, 1999.

Sec. 232.0031. STANDARD FOR ROADS IN SUBDIVISION. A county may not impose under Section 232.003 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of streets or roads with a similar type and amount of traffic.

Added by Acts 1999, 76th Leg., ch. 129, Sec. 5, eff. Sept. 1, 1999.

Sec. 232.0032. ADDITIONAL REQUIREMENTS: USE OF GROUNDWATER. (a) Except as provided by Subsection (a-1), a plat application for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land must have attached to it a statement that:

(1) is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state; and

(2) certifies that adequate groundwater is available for the subdivision.

(a-1) A commissioners court may waive the requirement prescribed by Subsection (a) that a plat application have attached to it a statement described by that subsection if:

(1) based on credible evidence of groundwater availability in the vicinity of the proposed subdivision, the commissioners court determines that sufficient groundwater is available and will continue to be available to the subdivided tract of land; and

(2) either:

(A) the entire tract proposed to be subdivided by the plat will be supplied with groundwater from the Gulf Coast Aquifer or the Carrizo-Wilcox Aquifer; or

(B) the proposed subdivision divides the tract into not more than 10 parts.

(a-2) A person subject to a waiver authorized by Subsection (a-1)(2)(B) regarding a subdivided tract of land must comply with the requirements of Subsection (a) if:

(1) the tract is subsequently divided in a manner that results in the original tract being subdivided into more than 10 parts; or

(2) the commissioners court determines that the proposed subdivision is part of a series of proposed subdivisions from an original tract that collectively includes more than 10 parts.

(b) The Texas Commission on Environmental Quality by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.

(c) The Texas Commission on Environmental Quality, in consultation with the Texas Water Development Board, by rule shall require a person who submits a plat under Subsection (a) to transmit to the Texas Water Development Board and any groundwater conservation district that includes in the district's boundaries any part of the subdivision information that would be useful in:

(1) performing groundwater conservation district activities;

(2) conducting regional water planning;

(3) maintaining the state's groundwater database; or

(4) conducting studies for the state related to groundwater.

Added by Acts 1999, 76th Leg., ch. 460, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 99, Sec. 2(b), eff. Sept. 1, 2001. Renumbered from Sec. 232.0031 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(85), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 515 (S.B. 662), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.30, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 980 (S.B. 2440), Sec. 2, eff. January 1, 2024.

Sec. 232.0033. ADDITIONAL REQUIREMENTS: FUTURE TRANSPORTATION CORRIDORS. (a) This section applies to each county in the state. The requirements provided by this section are in addition to the other requirements of this chapter.

(b) If all or part of a subdivision for which a plat is required under this chapter is located within a future transportation corridor identified in an agreement under Section 201.619, Transportation Code:

(1) the commissioners court of a county in which the land is located:

(A) may refuse to approve the plat for recordation unless the plat states that the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and

(B) may refuse to approve the plat for recordation if all or part of the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and

(2) each purchase contract or lease between the subdivider and a purchaser or lessee of land in the subdivision must contain a conspicuous statement that the land is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor.

(c) The commissioners court of a county or the court's designee may not refuse to review a plat application or refuse to approve a plat for recordation for failure to identify a corridor, as defined by Section 201.619, Transportation Code, unless the corridor is part of an agreement between the Texas Department of Transportation and the county under that section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1040 (H.B. 1857), Sec. 2, eff. September 1, 2007.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 866 (H.B. 3697), Sec. 7, eff. September 1, 2023.

Sec. 232.0034. ADDITIONAL REQUIREMENTS: ACCESS BY EMERGENCY VEHICLES. (a) This section applies only to a residential subdivision that is subdivided into 1,000 or more lots in the unincorporated area of a county.

(b) The commissioners court shall adopt infrastructure standards requiring at least two means of ingress and egress in the subdivision to provide for sufficient routes of travel for use by emergency vehicles and for use during evacuations resulting from fire or other natural disasters.

(c) This section does not limit the authority of a commissioners court under other existing laws, as applicable, to adopt infrastructure standards that are more stringent than standards required by this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 400 (S.B. 194), Sec. 1, eff. September 1, 2013.

Sec. 232.004. BOND REQUIREMENTS. If the commissioners court requires the owner of the tract to execute a bond, the owner must do so before subdividing the tract unless an alternative financial guarantee is provided under Section 232.0045. The bond must:

(1) be payable to the county judge of the county in which the subdivision will be located or to the judge's successors in office;

(2) be in an amount determined by the commissioners court to be adequate to ensure proper construction of the roads and streets in and drainage requirements for the subdivision, but not to exceed the estimated cost of construction of the roads, streets, and drainage requirements;

(3) be executed with sureties as may be approved by the court;

(4) be executed by a company authorized to do business as a surety in this state if the court requires a surety bond executed by a corporate surety; and

(5) be conditioned that the roads and streets and the

drainage requirements for the subdivision will be constructed:

(A) in accordance with the specifications adopted by the court; and

(B) within a reasonable time set by the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(b), eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 129, Sec. 6, eff. Sept. 1, 1999.

Sec. 232.0045. FINANCIAL GUARANTEE IN LIEU OF BOND. (a) In lieu of the bond an owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee.

(b) If a letter of credit is used, it must:

(1) list as the sole beneficiary the county judge of the county in which the subdivision is located; and

(2) be conditioned that the owner of the tract of land to be subdivided will construct any roads or streets in the subdivision:

(A) in accordance with the specifications adopted by the commissioners court; and

(B) within a reasonable time set by the court.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 54(b), eff. Aug. 28, 1989.

Sec. 232.0048. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has a substantial interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract with a fair market value of $2,500 or more;

(2) acts as a developer of the tract;

(3) owns 10 percent or more of the voting stock or shares of or owns either 10 percent or more or $5,000 or more of the fair market value of a business entity that:

(A) has an equitable or legal ownership interest in the tract with a fair market value of $2,500 or more; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year funds from a business entity described by Subdivision (3) that exceed 10 percent of the person's gross income for the previous year.

(c) A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to another person who, under Subsection (b), has a substantial interest in the tract.

(d) If a member of the commissioners court of a county has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court without the vote of the member who violated this section.

Added by Acts 1989, 71st Leg., ch. 624, Sec. 3.04, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 561, Sec. 39, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

Sec. 232.005. ENFORCEMENT IN GENERAL; PENALTY. (a) At the request of the commissioners court, the county attorney or other prosecuting attorney for the county may file an action in a court of competent jurisdiction to:

(1) enjoin the violation or threatened violation of a requirement established by, or adopted by the commissioners court under a preceding section of this chapter; or

(2) recover damages in an amount adequate for the county to undertake any construction or other activity necessary to bring about compliance with a requirement established by, or adopted by the commissioners court under a preceding section of this chapter.

(b) A person commits an offense if the person knowingly or

intentionally violates a requirement established by, or adopted by the commissioners court under a preceding section of this chapter. An offense under this subsection is a Class B misdemeanor. This subsection does not apply to a violation for which a criminal penalty is prescribed by Section 232.0048.

(c) A requirement that was established by or adopted under Chapter 436, Acts of the 55th Legislature, Regular Session, 1957 (Article 6626a, Vernon's Texas Civil Statutes), or Chapter 151, Acts of the 52nd Legislature, Regular Session, 1951 (Article 2372k, Vernon's Texas Civil Statutes), before September 1, 1983, and that, after that date, continues to apply to a subdivision of land is enforceable under Subsection (a). A knowing or intentional violation of the requirement is an offense under Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 624, Sec. 3.04, eff. Sept. 1, 1989.

Sec. 232.006. EXCEPTIONS FOR POPULOUS COUNTIES OR CONTIGUOUS COUNTIES. (a) This section applies to a county:

(1) that has a population of more than 3.3 million or is contiguous with a county that has a population of more than 3.3 million; and

(2) in which the commissioners court by order elects to operate under this section.

(b) If a county elects to operate under this section, Section 232.005 does not apply to the county. The sections of this chapter preceding Section 232.005 do apply to the county in the same manner that they apply to other counties except that:

(1) they apply only to tracts of land located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42;

(2) the commissioners court of the county, instead of having the powers granted by Sections 232.003(2) and (3), may:

(A) require a right-of-way on a street or road that does not function as a main artery in the subdivision of not less than 40 feet or more than 50 feet; and

(B) require that the street cut on a main artery within the right-of-way be not less than 30 feet or more than 45 feet, and

that the street cut on any other street or road within the right-of-way be not less than 25 feet or more than 35 feet; and

(3) Section 232.004(5)(B) does not apply to the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, Sec. 3.06, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 669, Sec. 76, eff. Sept. 1, 2001.

Sec. 232.007. MANUFACTURED HOME RENTAL COMMUNITIES. (a) In this section:

(1) "Manufactured home rental community" means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

(2) "Business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

(b) A manufactured home rental community is not a subdivision, and Sections 232.001-232.006 do not apply to the community.

(c) After a public hearing and after notice is published in a newspaper of general circulation in the county, the commissioners court of a county, by order adopted and entered in the minutes of the commissioners court, may establish minimum infrastructure standards for manufactured home rental communities located in the county outside the limits of a municipality. The minimum standards may include only:

(1) reasonable specifications to provide adequate drainage in accordance with standard engineering practices, including specifying necessary drainage culverts and identifying areas included in the 100-year flood plain;

(2) reasonable specifications for providing an adequate public or community water supply, including specifying the location of supply lines, in accordance with Subchapter C, Chapter 341, Health and Safety Code;

(3) reasonable requirements for providing access to sanitary sewer lines, including specifying the location of sanitary sewer lines, or providing adequate on-site sewage facilities in accordance with Chapter 366, Health and Safety Code;

(4) a requirement for the preparation of a survey

identifying the proposed manufactured home rental community boundaries and any significant features of the community, including the proposed location of manufactured home rental community spaces, utility easements, and dedications of rights-of-way; and

(5) reasonable specifications for streets or roads in the manufactured rental home community to provide ingress and egress access for fire and emergency vehicles.

(d) The commissioners court may not adopt minimum infrastructure standards that are more stringent than requirements adopted by the commissioners court for subdivisions. The commissioners court may only adopt minimum infrastructure standards for ingress and egress access by fire and emergency vehicles that are reasonably necessary.

(e) If the commissioners court adopts minimum infrastructure standards for manufactured home rental communities, the owner of land located outside the limits of a municipality who intends to use the land for a manufactured home rental community must have an infrastructure development plan prepared that complies with the minimum infrastructure standards adopted by the commissioners court under Subsection (c).

(f) Not later than the 60th day after the date the owner of a proposed manufactured home rental community submits an infrastructure development plan for approval, the county engineer or another person designated by the commissioners court shall approve or reject the plan in writing. If the plan is rejected, the written rejection must specify the reasons for the rejection and the actions required for approval of the plan. The failure to reject a plan within the period prescribed by this subsection constitutes approval of the plan.

(g) Construction of a proposed manufactured home rental community may not begin before the date the county engineer or another person designated by the commissioners court approves the infrastructure development plan. The commissioners court may require inspection of the infrastructure during or on completion of its construction. If a final inspection is required, the final inspection must be completed not later than the second business day after the date the commissioners court or the person designated by the commissioners court receives a written confirmation from the owner that the construction of the infrastructure is complete. If the inspector determines that the infrastructure complies with the infrastructure development plan, the commissioners court shall issue

a certificate of compliance not later than the fifth business day after the date the final inspection is completed. If a final inspection is not required, the commissioners court shall issue a certificate of compliance not later than the fifth business day after the date the commissioners court or the person designated by the commissioners court receives written certification from the owner that construction of the infrastructure has been completed in compliance with the infrastructure development plan.

(h) A utility may not provide utility services, including water, sewer, gas, and electric services, to a manufactured home rental community subject to an infrastructure development plan or to a manufactured home in the community unless the owner provides the utility with a copy of the certificate of compliance issued under Subsection (g). This subsection applies only to:

(1) a municipality that provides utility services;

(2) a municipally owned or municipally operated utility that provides utility services;

(3) a public utility that provides utility services;

(4) a nonprofit water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides utility services;

(5) a county that provides utility services; and

(6) a special district or authority created by state law that provides utility services.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 153, Sec. 1, eff. Aug. 30, 1999.

Sec. 232.008. CANCELLATION OF SUBDIVISION. (a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42.

(b) A person owning real property in this state that has been subdivided into lots and blocks or into small subdivisions may apply to the commissioners court of the county in which the property is located for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the subdivision. If, on the application, it is shown that the cancellation of all or part

of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the commissioners court by order shall authorize the owner of the subdivision to file an instrument canceling the subdivision in whole or in part. The instrument must describe the subdivision or the part of it that is canceled. The court shall enter the order in its minutes. After the cancellation instrument is filed and recorded in the deed records of the county, the county tax assessor-collector shall assess the property as if it had never been subdivided.

(c) The commissioners court shall publish notice of an application for cancellation. The notice must be published in a newspaper, published in the English language, in the county for at least three weeks before the date on which action is taken on the application. The court shall take action on an application at a regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice.

(d) If delinquent taxes are owed on the subdivided tract for any preceding year, and if the application to cancel the subdivision is granted as provided by this section, the owner of the tract may pay the delinquent taxes on an acreage basis as if the tract had not been subdivided. For the purpose of assessing the tract for a preceding year, the county tax assessor-collector shall back assess the tract on an acreage basis.

(e) On application for cancellation of a subdivision or any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of 75 percent of the property included in the subdivision, phase, or identifiable part, the commissioners court by order shall authorize the cancellation in the manner and after notice and a hearing as provided by Subsections (b) and (c). However, if the owners of at least 10 percent of the property affected by the proposed cancellation file written objections to the cancellation with the court, the grant of an order of cancellation is at the discretion of the court.

(f) To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that:

(1) abuts directly on the part of the roadway or easement to be canceled or closed; or

(2) is connected by the part of the roadway or easement to be canceled or closed, by the most direct feasible route, to:

(A) the nearest remaining public highway, county road, or access road to the public highway or county road; or

(B) any uncanceled common amenity of the subdivision.

(g) A person who appears before the commissioners court to protest the cancellation of all or part of a subdivision may maintain an action for damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the person's original purchase price for property in the canceled subdivision or part of the subdivision. The person must bring the action within one year after the date of the entry of the commissioners court's order granting the cancellation.

(h) Regardless of the date land is subdivided or a plat is filed for a subdivision, the commissioners court may deny a cancellation under this section if the commissioners court determines the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development as defined by Section 232.0085.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 129, Sec. 7, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 829 (H.B. 3096), Sec. 1, eff. June 17, 2011.

Sec. 232.0083. CANCELLATION OF CERTAIN SUBDIVISION PLATS IF EXISTING PLAT OBSOLETE. (a) This section applies only to a subdivision for which:

(1) a plat has been filed for 75 years or more;

(2) the most recent plat describes at least a portion of the property as acreage tracts;

(3) a previous plat described at least a portion of the property as lots and blocks; and

(4) the county tax assessor-collector lists the property in the subdivision on the tax rolls based on the description in the previous plat and assesses taxes on the basis of that description.

(b) A person owning real property in the subdivision may apply to the commissioners court of the county in which the property is

located for permission to cancel an existing subdivision plat in whole or part and to reestablish the property using lots and blocks descriptions that, to the extent practicable, are consistent with the previous subdivision plat.

(c) After notice and hearing, the commissioners court may order the cancellation of the existing subdivision plat and the reestablishment of the property in accordance with the application submitted under Subsection (b) if the court finds that:

(1) the cancellation and reestablishment does not interfere with the established rights of:

(A) any owner of a part of the subdivision; or

(B) a utility company with a right to use a public easement in the subdivision; or

(2) each owner or utility whose rights may be interfered with has agreed to the cancellation and reestablishment.

(d) The commissioners court shall publish notice of an application for the cancellation and reestablishment. The notice must be published at least three weeks before the date on which action is taken on the application and must direct any person who is interested in the property and who wishes to protest the proposed cancellation and reestablishment to appear at the time specified in the notice. The notice must be published in a newspaper that has general circulation in the county.

(e) If the commissioners court authorizes the cancellation and reestablishment, the court by order shall authorize the person making the application under this section to record an instrument showing the cancellation and reestablishment. The court shall enter the order in its minutes.

Added by Acts 2007, 80th Leg., R.S., Ch. 460 (H.B. 1100), Sec. 1, eff. June 16, 2007.

Sec. 232.0085. CANCELLATION OF CERTAIN SUBDIVISIONS IF LAND REMAINS UNDEVELOPED. (a) This section applies only to real property that:

(1) is located in the unincorporated area of an affected county, as defined by Section 16.341, Water Code, that:

(A) has adopted the model rules developed under Section 16.343, Water Code; and

(B) is located along an international border; and

(2) if the area is located in the extraterritorial jurisdiction of a municipality, is not subject to a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction.

(b) The commissioners court of a county may cancel, after notice and a hearing as required by this section, a subdivision for which the plat was filed and approved before September 1, 1989, if:

(1) the development of or the making of improvements in the subdivision was not begun before the effective date of this section; and

(2) the commissioners court by resolution has made a finding that the land in question is likely to be developed as a colonia.

(c) The commissioners court must publish notice of a proposal to cancel a subdivision under this section and the time and place of the required hearing in a newspaper of general circulation in the county for at least 21 days immediately before the date a cancellation order is adopted under this section. The county tax assessor-collector shall, not later than the 14th day before the date of the hearing, deposit with the United States Postal Service a similar notice addressed to each owner of land in the subdivision, as determined by the most recent county tax roll.

(d) At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the court shall adopt an order on whether to cancel the subdivision. The commissioners court may adopt an order canceling a subdivision if the court determines the cancellation is in the best interest of the public. The court may not adopt an order canceling a subdivision if:

(1) the cancellation interferes with the established rights of a person who is a nondeveloper owner and owns any part of the subdivision, unless the person agrees to the cancellation; or

(2) the owner of the entire subdivision is able to show that:

(A) the owner of the subdivision is able to comply with the minimum state standards and model political subdivision rules developed under Section 16.343, Water Code, including any bonding requirements; or

(B) the land was developed or improved within the

period described by Subsection (b).

(e) The commissioners court shall file the cancellation order for recording in the deed records of the county. After the cancellation order is filed and recorded, the property shall be treated as if it had never been subdivided, and the county chief appraiser shall assess the property accordingly. Any liens against the property shall remain against the property as it was previously subdivided.

(f) In this section:

(1) "Development" means the making, installing, or constructing of buildings and improvements.

(2) "Improvements" means water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and other utility facilities. The term does not include roadway facilities.

Added by Acts 1995, 74th Leg., ch. 277, Sec. 2, eff. June 5, 1995.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 75 (S.B. 580), Sec. 1, eff. September 1, 2023.

Sec. 232.009. REVISION OF PLAT. (a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities with a population of 1.5 million or more, as determined under Chapter 42.

(b) A person who owns real property in a tract that has been subdivided and that is subject to the subdivision controls of the county in which the property is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat that applies to the property and that is filed for record with the county clerk.

(c) Except as provided by Subsection (c-1), after the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of

the meeting. Except as provided by Subsection (f), if all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(c-1) If the commissioners court determines that the revision to the subdivision plat does not affect a public interest or public property of any type, including, but not limited to, a park, school, or road, the notice requirements under Subsection (c) do not apply to the application and the commissioners court shall:

(1) provide written notice of the application to the owners of the lots that are within 200 feet of the subdivision plat to be revised, as indicated in the most recent records of the central appraisal district of the county in which the lots are located; and

(2) if the county maintains an Internet website, post notice of the application continuously on the website for at least 30 days preceding the date of the meeting to consider the application until the day after the meeting.

(d) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or

(2) each owner whose rights may be interfered with has agreed to the revision.

(e) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

(f) The commissioners court is not required to give notice by mail under Subsection (c) if the plat revision only combines existing tracts.

(g) The commissioners court may impose a fee for filing an application under this section. The amount of the fee must be based on the cost of processing the application, including publishing the notices required under Subsection (c) or (c-1).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 345, Sec. 6, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 129, Sec. 8, eff. Sept. 1, 1999; Acts 2003,

78th Leg., ch. 523, Sec. 9, eff. June 20, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 430 (S.B. 552), Sec. 1, eff. June 14, 2013.

Sec. 232.0095. ALTERNATIVE PROCEDURES FOR PLAT REVISION. (a) This section applies only to real property located outside municipalities and outside the extraterritorial jurisdiction, as determined under Chapter 42, of municipalities with a population of 1.5 million or more.

(b) As an alternative to the provisions in Section 232.009 governing the revision of plats, a county by order may adopt the provisions in Sections 212.013, 212.014, 212.015, and 212.016 governing plat vacations, replatting, and plat amendment. A county that adopts the provisions in those sections may approve a plat vacation, a replat, and an amending plat in the same manner and under the same conditions, including the notice and hearing requirements, as a municipal authority responsible for approving plats under those sections.

(c) Instead of the purpose described by Section 212.016(a)(10), an amended plat may be approved and issued by the county to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:

(1) the changes do not affect applicable county regulations, including zoning regulations if the county has authority to adopt zoning regulations; and

(2) the changes do not attempt to amend or remove any covenants or restrictions.

Added by Acts 2003, 78th Leg., ch. 523, Sec. 10, eff. June 20, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 762 (H.B. 3410), Sec. 1, eff. June 15, 2007.

Sec. 232.010. EXCEPTION TO PLAT REQUIREMENT: COUNTY DETERMINATION. A commissioners court of the county may allow conveyance of portions of one or more previously platted lots by

metes and bounds description without revising the plat.

Added by Acts 1989, 71st Leg., ch. 345, Sec. 7, eff. Aug. 28, 1989.

Sec. 232.011. AMENDING PLAT. (a) The commissioners court may approve and issue an amending plat, if the amending plat is signed by the applicants and filed for one or more of the following purposes:

(1) to correct an error in a course or distance shown on the preceding plat;

(2) to add a course or distance that was omitted on the preceding plat;

(3) to correct an error in a real property description shown on the preceding plat;

(4) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(5) to correct any other type of scrivener or clerical error or omission of the previously approved plat, including lot numbers, acreage, street names, and identification of adjacent recorded plats; or

(6) to correct an error in courses and distances of lot lines between two adjacent lots if:

(A) both lot owners join in the application for amending the plat;

(B) neither lot is abolished;

(C) the amendment does not attempt to remove recorded covenants or restrictions; and

(D) the amendment does not have a material adverse effect on the property rights of the other owners of the property that is the subject of the plat.

(b) The amending plat controls over the preceding plat without the vacation, revision, or cancellation of the preceding plat.

(c) Notice, a hearing, and the approval of other lot owners are not required for the filing, recording, or approval of an amending plat.

Added by Acts 2007, 80th Leg., R.S., Ch. 1390 (S.B. 1867), Sec. 1, eff. September 1, 2007.

SUBCHAPTER B. SUBDIVISION PLATTING REQUIREMENTS IN COUNTY NEAR INTERNATIONAL BORDER

Sec. 232.021. DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Water Development Board.

(2) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or a group of subdividers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land; or

(B) known, designated, or advertised as a common unit or by a common name.

(3) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(4) "Floodplain" means any area in the 100-year floodplain that is susceptible to being inundated by water from any source or that is identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

(5) "Lease" includes an offer to lease.

(6) "Lot" means a parcel into which land that is intended for residential use is divided.

(6-a) "Lot of record" means:

(A) a lot, the boundaries of which were established by a plat recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989; or

(B) a lot, the boundaries of which were established by a metes and bounds description in a deed of conveyance, a contract of sale, or other executory contract to convey real property that has been legally executed and recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989.

(7) "Minimum state standards" means the minimum standards set out for:

(A) adequate drinking water by or under Section 16.343(b)(1), Water Code;

(B) adequate sewer facilities by or under Section 16.343(c)(1), Water Code; or

(C) the treatment, disposal, and management of solid waste by or under Chapters 361 and 364, Health and Safety Code.

(8) "Plat" means a map, chart, survey, plan, or replat

containing a description of the subdivided land with ties to permanent landmarks or monuments.

(9) "Sell" includes an offer to sell.

(10) "Sewer," "sewer services," or "sewer facilities" means treatment works as defined by Section 17.001, Water Code, or individual, on-site, or cluster treatment systems such as septic tanks and includes drainage facilities and other improvements for proper functioning of septic tank systems.

(11) "Subdivide" means to divide the surface area of land into lots intended primarily for residential use.

(12) "Subdivider" means an individual, firm, corporation, or other legal entity that directly or indirectly subdivides land into lots for sale or lease as part of a common promotional plan in the ordinary course of business.

(13) "Subdivision" means an area of land that has been subdivided into lots for sale or lease.

(14) "Utility" means a person, including a legal entity or political subdivision, that provides the services of:

(A) an electric utility, as defined by Section 31.002, Utilities Code;

(B) a gas utility, as defined by Section 101.003, Utilities Code; and

(C) a water and sewer utility, as defined by Section 13.002, Water Code.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.35, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 404, Sec. 4, eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1239 (S.B. 2253), Sec. 2, eff. June 19, 2009.

Sec. 232.022. APPLICABILITY. (a) Except as provided by Subsection (a-1), this subchapter applies only to:

(1) a county any part of which is located within 50 miles of an international border; or

(2) a county:

(A) any part of which is located within 100 miles of an international border;

(B) that contains the majority of the area of a municipality with a population of more than 250,000; and

(C) to which Subdivision (1) does not apply.

(a-1) This subchapter does not apply to a county to which Subchapter G applies.

(b) This subchapter applies only to land that is subdivided into two or more lots that are intended primarily for residential use in the jurisdiction of the county. A lot is presumed to be intended for residential use if the lot is five acres or less. This subchapter does not apply if the subdivision is incident to the conveyance of the land as a gift between persons related to each other within the third degree by affinity or consanguinity, as determined under Chapter 573, Government Code.

(c) Except as provided by Subsection (c-1), for purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of municipalities.

(c-1) Land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

(d) This subchapter does not apply if all of the lots of the subdivision are more than 10 acres.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1997, 75th Leg., ch. 376, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 404, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 737, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 2, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1364 (S.B. 1599), Sec. 2, eff. September 1, 2013.

Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 3, eff. September 1, 2025.

Sec. 232.023. PLAT REQUIRED. (a) A subdivider of land must

have a plat of the subdivision prepared if at least one of the lots of the subdivision is five acres or less. A commissioners court by order may require each subdivider of land to prepare a plat if none of the lots is five acres or less but at least one of the lots of a subdivision is more than five acres but not more than 10 acres.

(a-1) A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

(b) A plat required under this section must:

(1) be certified by a surveyor or engineer registered to practice in this state;

(2) define the subdivision by metes and bounds;

(3) locate the subdivision with respect to an original corner of the original survey of which it is a part;

(4) describe each lot, number each lot in progression, and give the dimensions of each lot;

(5) state the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part;

(6) include or have attached a document containing a description in English and Spanish of the water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operable;

(7) have attached a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities proposed under Subdivision (6) are in compliance with the model rules adopted under Section 16.343, Water Code, and a certified estimate of the cost to install water and sewer service facilities;

(8) provide for drainage in the subdivision to:

(A) avoid concentration of storm drainage water from each lot to adjacent lots;

(B) provide positive drainage away from all buildings; and

(C) coordinate individual lot drainage with the general storm drainage pattern for the area;

(9) include a description of the drainage requirements as provided in Subdivision (8);

(10) identify the topography of the area;

(11) include a certification by a surveyor or engineer registered to practice in this state describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain; and

(12) include certification that the subdivider has complied with the requirements of Section 232.032 and that:

(A) the water quality and connections to the lots meet, or will meet, the minimum state standards;

(B) sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards;

(C) electrical connections provided to the lot meet, or will meet, the minimum state standards; and

(D) gas connections, if available, provided to the lot meet, or will meet, the minimum state standards.

(c) A subdivider may meet the requirements of Subsection (b)(12)(B) through the use of a certificate issued by the appropriate county or state official having jurisdiction over the approval of septic systems stating that lots in the subdivision can be adequately and legally served by septic systems.

(d) The subdivider of the tract must acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat.

(e) The plat must be filed and recorded with the county clerk of the county in which the tract is located. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

(f) The commissioners court may require a plat application submitted for approval to include a digital map that is compatible with other mapping systems used by the county and that georeferences the subdivision plat and related public infrastructure using the Texas Coordinate Systems adopted under Section 21.071, Natural Resources Code. A digital map required under this subsection may be required only in a format widely used by common geographic information system software. A requirement adopted under this subsection must provide for an exemption from the requirement if the

subdivider of the tract submits with the plat application an acknowledged statement indicating that the digital mapping technology necessary to submit a map that complies with this subsection was not reasonably accessible.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 6, eff. Sept. 1, 1999. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1364 (S.B. 1599), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 550 (H.B. 2033), Sec. 2, eff. September 1, 2015.

Sec. 232.024. APPROVAL BY COUNTY REQUIRED. (a) A plat filed under Section 232.023 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk.

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless:

(1) the subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code; and

(2) the plat evidences a restrictive covenant prohibiting the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code.

(c) On request, the county clerk shall provide the attorney general or the Texas Water Development Board:

(1) a copy of each plat that is approved under this subchapter; or

(2) the reasons in writing and any documentation that support a variance granted under Section 232.042.

(d) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.034 relating to conflicts of interest.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 7, eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1239 (S.B. 2253), Sec. 3, eff. June 19, 2009.

Sec. 232.025. SUBDIVISION REQUIREMENTS. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in English and Spanish in a newspaper of general circulation in the county, the commissioners court shall for each subdivision:

(1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing how and when water, sewer, electricity, and gas services will be made available to the subdivision; and

(7) require that the subdivider of the tract execute a bond

in the manner provided by Section 232.027.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16 1995.

Sec. 232.026. WATER AND SEWER SERVICE EXTENSION. (a) The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest.

(b) The commissioners court may not grant an extension under Subsection (a) if it would allow an occupied residence to be without water or sewer services.

(c) If the commissioners court provides an extension, the commissioners court shall notify the attorney general of the extension and the reason for the extension. The attorney general shall notify all other state agencies having enforcement power over subdivisions of the extension.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 8, eff. Sept. 1, 1999.

Sec. 232.027. BOND REQUIREMENTS. (a) Unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.024, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the FDIC. The subdivider must comply with the requirement before subdividing the tract.

(b) The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995.

Sec. 232.028. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS. (a) On the approval of a plat by the commissioners court, the commissioners court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court.

(b) On the commissioners court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility or lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under Section 232.023.

(c) The request made under Subsection (b) must identify the land that is the subject of the request.

(d) Whenever a request is made under Subsection (b), the commissioners court shall issue the requesting party a written certification of its determinations under that subsection.

(e) The commissioners court shall make its determinations within 20 days after the date it receives the request under Subsection (b) and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.

(f) The commissioners court may adopt rules it considers necessary to administer its duties under this section.

(g) The commissioners court may impose a fee for a certificate

issued under this section for a subdivision which is located in the county and not within the limits of a municipality. The amount of the fee may be the greater of $30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115. A person who obtains a certificate under this section is not required to obtain a certificate under Section 212.0115.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 129, Sec. 9, eff. Sept. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 779 (H.B. 3834), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 546 (S.B. 1676), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1239 (S.B. 2253), Sec. 4, eff. June 19, 2009.

Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER. (a) This section applies only to a county defined under Section 232.022(a)(1).

(a-1) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(b) Except as provided by Subsections (c) and (k) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections 232.028(b)(2) and (3) that adequate water and sewer services have been installed to service the lot or subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section

232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A);

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 2003; and

(D) has had adequate sewer services installed to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code; or

(3) the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (c).

(e) A person requesting service may obtain a certificate under

Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);

(2) a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (c)(1)(C);

(3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, or September 1, 1999, as applicable under Subsection (c); and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Section 232.021(14) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code.

(f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1239, Sec. 6, eff. June 19, 2009.

(g) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) The prohibition established by this section shall not prohibit a water, sewer, electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that

has adequate sewer services installed that are fully operable to service the lot, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code, and was subdivided by a plat approved prior to September 1, 1989.

(j) In this section, "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(k) Subject to Subsections (l) and (m), a utility that does not hold a certificate issued by, or has not received a determination from, the commissioners court under Section 232.028 to serve or connect subdivided property with electricity or gas may provide that service to a single-family residential dwelling on that property if:

(1) the person requesting utility service:

(A) is the owner and occupant of the residential dwelling; and

(B) on or before January 1, 2001, owned and occupied the residential dwelling;

(2) the utility previously provided the utility service on or before January 1, 2001, to the property for the person requesting the service;

(3) the utility service provided as described by Subdivision (2) was terminated not earlier than five years before the date on which the person requesting utility service submits an application for that service; and

(4) providing the utility service will not result in:

(A) an increase in the volume of utility service provided to the property; or

(B) more than one utility connection for each single-family residential dwelling located on the property.

(l) A utility may provide service under Subsection (k) only if the person requesting the service provides to the commissioners court documentation that evidences compliance with the requirements of Subsection (k) and that is satisfactory to the commissioners court.

(m) A utility may not serve or connect subdivided property as described by Subsection (k) if, on or after September 1, 2007, any existing improvements on that property are modified.

(n) Except as provided by Subsection (o), this section does not prohibit a water or sewer utility from providing water or sewer

utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the municipality with jurisdiction over the project or the approval of plats within the project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code, if applicable.

(o) A utility may not serve any subdivided land with water utility connection or service under Subsection (n) unless the entity receives a determination from the county commissioners court under Section 232.028(b)(3) that adequate sewer services have been installed to service the lot or dwelling.

(p) The commissioners court may impose a fee for a certificate issued under this section for a subdivision which is located in the county and not within the limits of a municipality. The amount of the fee may be the greater of $30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115. A person who obtains a certificate under this section is not required to obtain a certificate under Section 212.0115.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1997, 75th Leg., ch. 1062, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 404, Sec. 9, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 684, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1047 (H.B. 2096), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 546 (S.B. 1676), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1239 (S.B. 2253), Sec. 5, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1239 (S.B. 2253), Sec. 6, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(43), eff. September 1, 2011.

Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES WITHIN 100 MILES OF INTERNATIONAL BORDER. (a) This section applies only to a county defined under Section 232.022(a)(2).

(b) Except as provided by Subsection (d) or Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(c) Except as provided by Subsection (d) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(d) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or

executory contract before September 1, 2005;

(B) is located in a subdivision in which the utility has previously provided service; and

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before September 1, 2005; or

(2) the subdivided land was not subdivided after September 1, 2005, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(e) A utility may provide utility service to subdivided land described by Subsection (d)(1) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (d)(1).

(f) A person requesting service may obtain a certificate under Subsection (d)(1) only if the person provides to the commissioners court either:

(1) documentation containing:

(A) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 2005; and

(B) a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005; or

(2) a notarized affidavit by the person requesting service that states that:

(A) the property was sold or conveyed to that person before September 1, 2005; and

(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005.

(g) A person requesting service may obtain a certificate under Subsection (d)(2) only if the person provides to the commissioners

court an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 2005.

(h) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(i) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(j) The prohibition established by this section does not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot:

(1) sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider before September 1, 2005;

(2) located within a subdivision where the utility has previously established service; and

(3) subdivided by a plat approved before September 1, 1989.

(k) In this section, "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

Added by Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 5, eff. September 1, 2005.

Sec. 232.030. SUBDIVISION REGULATION; COUNTY AUTHORITY. (a) The commissioners court for each county shall adopt and enforce the model rules developed under Section 16.343, Water Code.

(b) Except as provided by Section 16.350(d), Water Code, or Section 232.042 or 232.043, the commissioners court may not grant a variance or adopt regulations that waive any requirements of this subchapter.

(c) The commissioners court shall adopt regulations setting forth requirements for:

(1) potable water sufficient in quality and quantity to

meet minimum state standards;

(2) solid waste disposal meeting minimum state standards and rules adopted by the county under Chapter 364, Health and Safety Code;

(3) sufficient and adequate roads that satisfy the standards adopted by the county;

(4) sewer facilities meeting minimum state standards;

(5) electric service and gas service; and

(6) standards for flood management meeting the minimum standards set forth by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

(d) In adopting regulations under Subsection (c)(2), the commissioners court may allow one or more commercial providers to provide solid waste disposal services as an alternative to having the service provided by the county.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 10, eff. Sept. 1, 1999.

Sec. 232.0305. COUNTY INSPECTOR. (a) The commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations adopted under this subchapter, Section 16.343, Water Code, or other law.

(b) Fees collected under this section may be used only to fund inspections conducted under this section.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 11, eff. Sept. 1, 1999.

Sec. 232.031. REQUIREMENTS PRIOR TO SALE OR LEASE. (a) Except as provided by Subsection (d), a subdivider may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(b) Not later than the 30th day after the date a lot is sold, a subdivider shall record with the county clerk all sales contracts, including the attached disclosure statement required by Section

232.033, leases, and any other documents that convey an interest in the subdivided land.

(c) A document filed under Subsection (b) is a public record.

(d) In a county defined under Section 232.022(a)(2), a subdivider may not sell or lease land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 6, eff. September 1, 2005.

Sec. 232.0315. NOTICE OF WATER AND WASTEWATER REQUIREMENTS BY POLITICAL SUBDIVISIONS. (a) This section applies only to a county or other political subdivision located in the county that sells:

(1) under Section 34.01, Tax Code, real property presumed to be for residential use under Section 232.022; or

(2) under Section 3, Part VI, Texas Rules of Civil Procedure, and Chapter 34, Civil Practice and Remedies Code, real property presumed to be for residential use under Section 232.022, taken by virtue of a writ of execution.

(b) A county or other political subdivision located in the county shall include in the public notice of sale of the property and the deed conveying the property a statement substantially similar to the following:

"THIS SALE IS BEING CONDUCTED PURSUANT TO STATUTORY OR JUDICIAL REQUIREMENTS. BIDDERS WILL BID ON THE RIGHTS, TITLE, AND INTERESTS, IF ANY, IN THE REAL PROPERTY OFFERED.

"THE PROPERTY IS SOLD AS IS, WHERE IS, AND WITHOUT ANY WARRANTY, EITHER EXPRESS OR IMPLIED. NEITHER THE SELLER NOR THE SHERIFF'S DEPARTMENT WARRANTS OR MAKES ANY REPRESENTATIONS ABOUT THE PROPERTY'S TITLE, CONDITION, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. BUYERS ASSUME ALL RISKS.

"IN SOME SITUATIONS, A LOT OF FIVE ACRES OR LESS IS PRESUMED TO BE INTENDED FOR RESIDENTIAL USE. HOWEVER, IF THE PROPERTY LACKS WATER OR WASTEWATER SERVICE, THE PROPERTY MAY NOT QUALIFY FOR RESIDENTIAL USE. A POTENTIAL BUYER WHO WOULD LIKE MORE INFORMATION SHOULD MAKE

ADDITIONAL INQUIRIES OR CONSULT WITH PRIVATE COUNSEL."

(c) The statement required by Subsection (b) must be:

(1) printed:

(A) in English and Spanish; and

(B) in 14-point boldface type or 14-point uppercase typewritten letters; and

(2) read aloud at the sale, in English and Spanish, by an agent of the county.

(d) A sale conducted in violation of this section is void.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1111 (S.B. 1760), Sec. 1, eff. September 1, 2011.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 9 (S.B. 59), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 9 (S.B. 59), Sec. 2, eff. September 1, 2023.

Sec. 232.032. SERVICES PROVIDED BY SUBDIVIDER. A subdivider having an approved plat for a subdivision shall:

(1) furnish a certified letter from the utility provider stating that water is available to the subdivision sufficient in quality and quantity to meet minimum state standards required by Section 16.343, Water Code, and consistent with the certification in the letter, and that water of that quality and quantity will be made available to the point of delivery to all lots in the subdivision;

(2) furnish sewage treatment facilities that meet minimum state standards to fulfill the wastewater requirements of the subdivision or furnish certification by the appropriate county or state official having jurisdiction over the approval of the septic systems indicating that lots in the subdivision can be adequately and legally served by septic systems as provided under Chapter 366, Health and Safety Code;

(3) furnish roads satisfying minimum standards as adopted by the county;

(4) furnish adequate drainage meeting standard engineering practices; and

(5) make a reasonable effort to have electric utility service and gas utility service installed by a utility.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995.

Sec. 232.033. ADVERTISING STANDARDS AND OTHER REQUIREMENTS BEFORE SALE; OFFENSE. (a) Brochures, publications, and advertising of any form relating to subdivided land:

(1) may not contain any misrepresentation; and

(2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities.

(b) The subdivider shall provide a copy in Spanish of all written documents relating to the sale of subdivided land under an executory contract, including the contract, disclosure notice, and annual statement required by this section and a notice of default required by Subchapter D, Chapter 5, Property Code, if:

(1) negotiations that precede the execution of the executory contract are conducted primarily in Spanish; or

(2) the purchaser requests the written documents to be provided in Spanish.

(c) Before an executory contract is signed by the purchaser, the subdivider shall provide the purchaser with a written notice, which must be attached to the executory contract, informing the purchaser of the condition of the property that must, at a minimum, be executed by the subdivider and purchaser, be acknowledged, and read substantially similar to the following:

IF ANY OF THE ITEMS BELOW HAVE NOT BEEN CHECKED, YOU MAY NOT BE ABLE TO LIVE ON THE PROPERTY.

WARNING

CONCERNING THE PROPERTY AT (street address or legal description and municipality)

THIS DOCUMENT STATES THE TRUE FACTS ABOUT THE LAND YOU ARE CONSIDERING PURCHASING.

CHECK OFF THE ITEMS THAT ARE TRUE:

___ The property is in a recorded subdivision.

___ The property has water service that provides potable water.

___ The property has sewer service or a septic system.

___ The property has electric service.

___ The property is not in a flood-prone area.

___ The roads are paved.

___ No person other than the subdivider:

(1) owns the property;

(2) has a claim of ownership to the property; or

(3) has an interest in the property.

___ No person has a lien filed against the property.

___ There are no back taxes owed on the property.

NOTICE

SELLER ADVISES PURCHASER TO:

(1) OBTAIN A TITLE ABSTRACT OR TITLE COMMITMENT REVIEWED BY AN ATTORNEY BEFORE SIGNING A CONTRACT OF THIS TYPE; AND

(2) PURCHASE AN OWNER'S POLICY OF TITLE INSURANCE COVERING THE PROPERTY.

_____ _____

(Date) (Signature of Subdivider)

_____ _____

(Date) (Signature of Purchaser)

(d) The subdivider shall provide any purchaser who is sold a lot under an executory contract with an annual statement in January of each year for the term of the executory contract. If the subdivider mails the statement to the purchaser, the statement must be postmarked not later than January 31.

(e) The statement under Subsection (d) must include the following information:

(1) the amount paid under the contract;

(2) the remaining amount owed under the contract;

(3) the annual interest rate charged under the contract during the preceding 12-month period; and

(4) the number of payments remaining under the contract.

(f) If the subdivider fails to comply with Subsections (d) and (e), the purchaser may:

(1) notify the subdivider that the purchaser has not received the statement and will deduct 15 percent of each monthly payment due until the statement is received; and

(2) not earlier than the 25th day after the date the purchaser provides the subdivider notice under this subsection, deduct 15 percent of each monthly payment due until the statement is received by the purchaser.

(g) A purchaser who makes a deduction under Subsection (f) is not required to reimburse the subdivider for the amount deducted.

(h) A person who is a seller of lots in a subdivision, or a subdivider or an agent of a seller or subdivider, commits an offense if the person knowingly authorizes or assists in the publication, advertising, distribution, or circulation of any statement or representation that the person knows is false concerning any subdivided land offered for sale or lease. An offense under this section is a Class A misdemeanor.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. July 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.17, eff. Sept. 1, 1999.

Sec. 232.034. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided into tracts or lots. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has an interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract;

(2) acts as a developer of the tract;

(3) owns voting stock or shares of a business entity that:

(A) has an equitable or legal ownership interest in the tract; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year money or any thing of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an interest in the tract.

(d) If a member of the commissioners court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an

offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

(g) A conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995.

Sec. 232.035. CIVIL PENALTIES. (a) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) Notwithstanding any other remedy at law or equity, a subdivider or an agent of a subdivider may not cause, suffer, allow, or permit any part of a subdivision over which the subdivider or an agent of the subdivider has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

(c) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than $500 or more than $1,000 for each violation and for each day of a continuing violation but not to exceed $5,000 each day and shall also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(d) Except as provided by Subsection (e), a person who violates Subsection (a) or (b) is subject to a civil penalty of not less than $10,000 or more than $15,000 for each lot conveyed or each subdivision that becomes a nuisance. The person must also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(e) A person who violates Subsection (b) is not subject to a fine under Subsection (d) if the person corrects the nuisance not

later than the 30th day after the date the person receives notice from the attorney general or a local health authority of the nuisance.

(f) Venue for an action under this section is in a district court of Travis County, a district court in the county in which the defendant resides, or a district court in the county in which the violation or threat of violation occurs.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 12, eff. Sept. 1, 1999.

Sec. 232.036. CRIMINAL PENALTIES. (a) A subdivider commits an offense if the subdivider knowingly fails to file a plat required by this subchapter. An offense under this subsection is a Class A misdemeanor.

(b) A subdivider who owns a subdivision commits an offense if the subdivider knowingly fails to timely provide for the construction or installation of water or sewer service as required by Section 232.032 or fails to make a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.032. An offense under this subsection is a Class A misdemeanor.

(c) If it is shown at the trial of an offense under Subsection (a) that the defendant caused five or more residences in the subdivision to be inhabited, the offense is a state jail felony.

(d) A subdivider commits an offense if the subdivider allows the conveyance of a lot in the subdivision without the appropriate water and sewer utilities as required by Section 232.032 or without having made a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.032. An offense under this section is a Class A misdemeanor. Each lot conveyed constitutes a separate offense.

(e) Venue for prosecution for a violation under this section is in the county in which any element of the violation is alleged to have occurred or in Travis County.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995.

Sec. 232.037. ENFORCEMENT. (a) The attorney general, or the district attorney, criminal district attorney, county attorney with felony responsibilities, or county attorney of the county may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:

(1) enjoin the violation or threatened violation of the model rules adopted under Section 16.343, Water Code;

(2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the commissioners court under this subchapter;

(3) recover civil or criminal penalties, attorney's fees, litigation costs, and investigation costs; and

(4) require platting or replatting under Section 232.040.

(b) The attorney general, at the request of the district or county attorney with jurisdiction, may conduct a criminal prosecution under Section 232.033(h) or 232.036.

(c) During the pendency of any enforcement action brought, any resident of the affected subdivision, or the attorney general, district attorney, or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of pre-existing utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that termination poses a threat to public health, safety, or welfare of the residents.

(d) This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 13, 14, eff. Sept. 1, 1999.

Sec. 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. (a) Except as provided by Subsection (b), a person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider, may bring suit in the district court in which the

property is located or in a district court in Travis County to:

(1) declare the sale of the property void, require the subdivider to return the purchase price of the property, and recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees; or

(2) enjoin a violation or threatened violation of Section 232.032, require the subdivider to plat or replat under Section 232.040, and recover from the subdivider:

(A) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(B) court costs; and

(C) reasonable attorney's fees.

(b) If the lot is located in a county defined under Section 232.022(a)(2), a person may only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 15, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 7, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1380 (S.B. 781), Sec. 1, eff. June 15, 2007.

Sec. 232.039. CANCELLATION OF SUBDIVISION. (a) A subdivider of land may apply to the commissioners court to cancel all or part of the subdivision in the manner provided by Section 232.008 after notice and hearing as provided by this section.

(b) A resident of a subdivision for which the subdivider has applied for cancellation under Subsection (a) has the same rights as a purchaser of land under Section 232.008.

(c) The notice required by Section 232.008(c) must also be

published in Spanish in the newspaper of highest circulation and in a Spanish-language newspaper in the county if available.

(d) Not later than the 14th day before the date of the hearing, the county chief appraiser shall by regular and certified mail provide notice containing the information described by Section 232.008(c) to:

(1) each person who pays property taxes in the subdivision, as determined by the most recent tax roll; and

(2) each person with an interest in the property.

(e) The commissioners court may require a subdivider to provide the court with the name and last known address of each person with an interest in the property. For purposes of this subsection, a person residing on a lot purchased through an executory contract has an interest in the property.

(f) A person who fails to provide information requested under Subsection (e) before the 31st day after the date the request is made is liable to the state for a penalty of $500 for each week the person fails to provide the information.

(g) The commissioners court may cancel a subdivision only after a public hearing. At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the commissioners court shall adopt an order on whether to cancel the subdivision.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 16, eff. Sept. 1, 1999.

Sec. 232.040. REPLATTING. (a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is platted or replatted as required by this subchapter. A subdivider or agent of a subdivider may not transfer a lot through an executory contract or other similar

conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.064, Property Code; or

(2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of this subchapter.

(c) Subsection (b) does not apply if a seller other than a subdivider or agent of a subdivider resides on the lot.

(d) The attorney general or a district or county attorney with jurisdiction may bring a proceeding under Subsection (b).

(e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Section 232.029 or 232.0291.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 17, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 8, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 12.004, eff. September 1, 2013.

Sec. 232.041. REVISION OF PLAT. (a) A person who has subdivided land that is subject to the subdivision controls of the county in which the land is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat filed for record with the county clerk.

(b) Except as provided by Subsection (b-1), after the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of

the meeting. If all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(b-1) If the commissioners court determines that the revision to the subdivision plat does not affect a public interest or public property of any type, including, but not limited to, a park, school, or road, the notice requirements under Subsection (b) do not apply to the application and the commissioners court shall:

(1) provide written notice of the application to the owners of the lots that are within 200 feet of the subdivision plat to be revised, as indicated in the most recent records of the central appraisal district of the county in which the lots are located; and

(2) if the county maintains an Internet website, post notice of the application continuously on the website for at least 30 days preceding the date of the meeting to consider the application until the day after the meeting.

(c) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or

(2) each owner whose rights may be interfered with has agreed to the revision.

(d) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

(e) The commissioners court may impose a fee for filing an application under this section. The amount of the fee must be based on the cost of processing the application, including publishing the notices required under Subsection (b) or (b-1).

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 430 (S.B. 552), Sec. 2, eff. June 14, 2013.

Sec. 232.042. VARIANCES FROM REPLATTING REQUIREMENTS. (a) On

request of a subdivider or resident purchaser, the commissioners court may grant a delay or a variance from compliance with Section 232.040 as provided by this section.

(b) The commissioners court may grant a delay of two years if the reason for the delay is to install utilities. A person may apply for one renewal of a delay under this subsection. To obtain an initial delay under this subsection, a subdivider must:

(1) identify the affected utility providers;

(2) provide the terms and conditions on which service may be provided; and

(3) provide a certified letter from each utility provider stating that it has the right to serve the area and it will serve the area.

(c) The commissioners court may grant a delay or a variance for a reason other than a reason described by Subsection (b) if it is shown that compliance would be impractical or would be contrary to the health and safety of residents of the subdivision. The commissioners court must issue written findings stating the reasons why compliance is impractical.

(d) A delay or a variance granted by the commissioners court is valid only if the commissioners court notifies the attorney general of the delay or variance and the reasons for the delay or variance not later than the 30th day after the date the commissioners court grants the delay or variance.

(e) Until approved water and sewer services are made available to the subdivision, the subdivider of land for which a delay is granted under this section must provide at no cost to residents:

(1) 25 gallons of potable water a day for each resident and a suitable container for storing the water; and

(2) suitable temporary sanitary wastewater disposal facilities.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 4, eff. June 16, 1995. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 18, eff. Sept. 1, 1999.

Sec. 232.043. VARIANCES FROM PLATTING REQUIREMENTS. (a) On the request of a subdivider who created an unplatted subdivision or a resident purchaser of a lot in the subdivision, the commissioners

court of a county may grant:

(1) a delay or variance from compliance with the subdivision requirements prescribed by Section 232.023(b)(8) or (9), 232.025(1), (2), (3), (4), or (5), or 232.030(c)(2), (3), (5), or (6); or

(2) a delay or variance for an individual lot from compliance with the requirements prescribed by the model subdivision rules adopted under Section 16.343, Water Code, for:

(A) the distance that a structure must be set back from roads or property lines; or

(B) the number of single-family, detached dwellings that may be located on a lot.

(b) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the commissioners court may grant a delay or variance under this section only if:

(1) a majority of the lots in the subdivision were sold before:

(A) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(B) September 1, 2005, in a county defined under Section 232.022(a)(2);

(2) a majority of the resident purchasers in the subdivision sign a petition supporting the delay or variance;

(3) the person requesting the delay or variance submits to the commissioners court:

(A) a description of the water and sewer service facilities that will be constructed or installed to service the subdivision;

(B) a statement specifying the date by which the water and sewer service facilities will be fully operational; and

(C) a statement signed by an engineer licensed in this state certifying that the plans for the water and sewer facilities meet the minimum state standards;

(4) the commissioners court finds that the unplatted subdivision at the time the delay or variance is requested is developed in a manner and to an extent that compliance with specific platting requirements is impractical or contrary to the health or safety of the residents of the subdivision; and

(5) the subdivider who created the unplatted subdivision

has not violated local law, federal law, or state law, excluding this chapter, in subdividing the land for which the delay or variance is requested, if the subdivider is the person requesting the delay or variance.

(c) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision owns property in the subdivision, the commissioners court may grant a provisional delay or variance only if the requirements of Subsection (b) are satisfied. The commissioners court may issue a final grant of the delay or variance only if the commissioners court has not received objections from the attorney general before the 91st day after the date the commissioners court submits the record of its proceedings to the attorney general as prescribed by Subsection (d).

(d) If the commissioners court grants a delay or variance under this section, the commissioners court shall:

(1) make findings specifying the reason compliance with each requirement is impractical or contrary to the health or safety of residents of the subdivision;

(2) keep a record of its proceedings and include in the record documentation of the findings and the information submitted under Subsection (b); and

(3) submit a copy of the record to the attorney general.

(e) The failure of the attorney general to comment or object to a delay or variance granted under this section does not constitute a waiver of or consent to the validity of the delay or variance granted.

(f) This section does not affect a civil suit filed against, a criminal prosecution of, or the validity of a penalty imposed on a subdivider for a violation of law, regardless of the date on which the violation occurred.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 19, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 9, eff. September 1, 2005.

Sec. 232.044. AMENDING PLAT. The commissioners court may approve and issue an amending plat under this subchapter in the same manner, for the same purposes, and subject to the same related

provisions as provided by Section 232.011.

Added by Acts 2007, 80th Leg., R.S., Ch. 1390 (S.B. 1867), Sec. 2, eff. September 1, 2007.

Sec. 232.045. APPLICABILITY OF INFRASTRUCTURE REQUIREMENTS TO LOTS UNDEVELOPED FOR 25 YEARS OR MORE. (a) This section applies only to a county that is adjacent to an international border and contains a municipality with a population of 500,000 or more.

(b) A commissioners court by order may implement a process:

(1) applicable to a subdivision in which 50 percent or more of the lots are undeveloped or unoccupied on or after the 25th anniversary of the date the plat for the subdivision was recorded with the county; and

(2) through which the county, to the extent practicable, may apply to the subdivision more current street, road, drainage, and other infrastructure requirements.

(c) A regulation or standard adopted by a county under this section must be no less stringent than the minimum standards and other requirements under the model rules for safe and sanitary water supply and sewer services adopted under Section 16.343, Water Code, and any other minimum public safety standards that would otherwise be applicable to the subdivision.

(d) A regulation or standard adopted by a county under this section applies only to a lot that is owned by an individual, firm, corporation, or other legal entity that directly or indirectly offers lots for sale or lease as part of a common promotional plan in the ordinary course of business, and each regulation or standard must expressly state that limitation. For the purposes of this subsection, "common promotional plan" means a plan or scheme of operation undertaken by a person or a group acting in concert, either personally or through an agent, to offer for sale or lease more than two lots when the land is:

(1) contiguous or part of the same area of land; or

(2) known, designated, or advertised as a common unit or by a common name.

Added by Acts 2019, 86th Leg., R.S., Ch. 346 (S.B. 1402), Sec. 1, eff. January 1, 2020.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 146, eff. September 1, 2023.

SUBCHAPTER C. SUBDIVISION PLATTING REQUIREMENTS IN CERTAIN ECONOMICALLY DISTRESSED COUNTIES

Sec. 232.071. APPLICABILITY. This subchapter applies only to the subdivision of land located:

(1) outside the corporate limits of a municipality; and

(2) in a county:

(A) in which is located a political subdivision that is eligible for and has applied for financial assistance under Section 15.407, Water Code, or Subchapter K, Chapter 17, Water Code; and

(B) to which Subchapters B and G do not apply.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 404, Sec. 21, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 927 (H.B. 467), Sec. 14, eff. September 1, 2005.

Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 4, eff. September 1, 2025.

Sec. 232.072. PLAT REQUIRED. (a) The owner of a tract of land that divides the tract in any manner that creates at least one lot of five acres or less intended for residential purposes must have a plat of the subdivision prepared. A commissioners court by order may require each subdivider of land to prepare a plat if none of the lots is five acres or less but at least one of the lots of the subdivision is more than five acres but not more than 10 acres.

(a-1) A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

(b) A plat required under this section must:

(1) include on the plat or have attached to the plat a document containing a description of the water and sewer service

facilities that will be constructed or installed to service the subdivision and a statement of the date by which the facilities will be fully operable; and

(2) have attached to the plat a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities described by the plat or the document attached to the plat are in compliance with the model rules adopted under Section 16.343, Water Code.

(c) A plat required under this section must be filed and recorded with the county clerk of the county in which the tract is located. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

(d) The commissioners court may require a plat application submitted for approval to include a digital map that is compatible with other mapping systems used by the county and that georeferences the subdivision plat and related public infrastructure using the Texas Coordinate Systems adopted under Section 21.071, Natural Resources Code. A digital map required under this subsection may be required only in a format widely used by common geographic information system software. A requirement adopted under this subsection must provide for an exemption from the requirement if the owner of the tract submits with the plat application an acknowledged statement indicating that the digital mapping technology necessary to submit a map that complies with this subsection was not reasonably accessible.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1364 (S.B. 1599), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 550 (H.B. 2033), Sec. 3, eff. September 1, 2015.

Sec. 232.073. APPROVAL BY COUNTY REQUIRED. (a) A plat filed under Section 232.072 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under

this subchapter is not filed with the county clerk.

(b) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.078 relating to conflicts of interest.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 22, eff. Sept. 1, 1999.

Sec. 232.074. BOND REQUIREMENTS. (a) Unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.073, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the Federal Deposit Insurance Corporation. The subdivider must comply with the requirement before subdividing the tract.

(b) The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997.

Sec. 232.075. WATER AND SEWER SERVICE EXTENSION. (a) The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest.

(b) The commissioners court may not grant an extension under

Subsection (a) if it would allow an occupied residence to be without water or sewer services.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997.

Sec. 232.076. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS. (a) On the approval of a plat by the commissioners court, the commissioners court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court.

(b) On its own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall:

(1) determine whether a plat is required under this subchapter for an identified tract of land that is located within the jurisdiction of the county; and

(2) if a plat is required for the identified tract, determine whether a plat has been reviewed and approved by the commissioners court.

(c) The request made under Subsection (b) must adequately identify the land that is the subject of the request.

(d) Whenever a request is made under Subsection (b), the commissioners court shall issue the requesting party a written certification of its determinations.

(e) The commissioners court shall make its determinations within 20 days after the date it receives the request under Subsection (b) and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.

(f) The commissioners court may adopt rules it considers necessary to administer its duties under this section.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997.

Sec. 232.077. CONNECTION OF UTILITIES IN CERTAIN COUNTIES. (a) This section applies only to a tract of land for which a plat is required under this subchapter.

(b) An entity described by Subsection (c) may not serve or connect any land with water, sewer, electricity, gas, or other

utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 232.076 stating that a plat has been reviewed and approved for the land.

(c) The prohibition established by Subsection (b) applies only to:

(1) a municipality, and officials of the municipality, that provides water, sewer, electricity, gas, or other utility service;

(2) a municipally owned or municipally operated utility that provides any of those services;

(3) a public utility that provides any of those services;

(4) a water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides any of those services;

(5) a county that provides any of those services; and

(6) a special district or authority created by or under state law that provides any of those services.

(d) The prohibition established by Subsection (b) applies only to land that an entity described by Subsection (c) first serves or first connects with services:

(1) between September 1, 1989, and June 16, 1995; or

(2) after the effective date of this subchapter.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.36, eff. Sept. 1, 1999.

Sec. 232.0775. COUNTY INSPECTOR. (a) The commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations adopted under this subchapter, Section 16.343, Water Code, or other law.

(b) Fees collected under this section may be used only to fund inspections conducted under this section.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 23, eff. Sept. 1, 1999.

Sec. 232.078. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that

is subdivided into tracts or lots. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has an interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract;

(2) acts as a developer of the tract;

(3) owns voting stock or shares of a business entity that:

(A) has an equitable or legal ownership interest in the tract; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year money or any thing of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an interest in the tract.

(d) If a member of the commissioners court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

(g) A conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997.

Sec. 232.079. CIVIL PENALTIES. (a) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as

required by this subchapter.

(b) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than $500 or more than $1,000 for each violation and for each day of a continuing violation but not to exceed $5,000 each day and shall also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(c) Venue for an action under this section is in a district court of Travis County, a district court in the county in which the defendant resides, or a district court in the county in which the violation or threat of violation occurs.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997.

Sec. 232.080. ENFORCEMENT. (a) The attorney general, or the district attorney, criminal district attorney, or county attorney, may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:

(1) enjoin the violation or threatened violation of applicable model rules adopted under Section 16.343, Water Code;

(2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the commissioners court under this subchapter;

(3) recover civil or criminal penalties, attorney's fees, litigation costs, and investigation costs; and

(4) require platting as required by this subchapter.

(b) During the pendency of any enforcement action brought, any resident of the affected subdivision, or the attorney general, district attorney, or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of preexisting utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that termination poses a threat to public health or to the health, safety, or welfare of the residents. This subsection does not prohibit a provider of utilities from terminating services under

other law to a resident who has failed to timely pay for services.

(c) This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.

Added by Acts 1997, 75th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 404, Sec. 24, eff. Sept. 1, 1999.

Sec. 232.081. AMENDING PLAT. The commissioners court may approve and issue an amending plat under this subchapter in the same manner, for the same purposes, and subject to the same related provisions as provided by Section 232.011.

Added by Acts 2007, 80th Leg., R.S., Ch. 1390 (S.B. 1867), Sec. 3, eff. September 1, 2007.

SUBCHAPTER D. COUNTY PLANNING COMMISSION

Sec. 232.091. APPLICABILITY. This subchapter applies only to a county:

(1) authorized to establish a planning commission under Subchapter B, C, or G; and

(2) in which the commissioners court by order elects to operate under this subchapter.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 25, eff. Sept. 1, 1999. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 5, eff. September 1, 2025.

Sec. 232.092. ESTABLISHMENT AND ABOLITION OF PLANNING COMMISSION. (a) To promote the general public welfare, the commissioners court of a county by order may:

(1) establish a planning commission under this section; and

(2) abolish a planning commission established under this section.

(b) The commissioners court may authorize the planning

commission to act on behalf of the commissioners court in matters relating to:

(1) the duties and authority of the commissioners court under Subchapter A, B, or C; and

(2) land use, health and safety, planning and development, or other enforcement provisions specifically authorized by law.

(c) If the commissioners court establishes a planning commission, the commissioners court by order shall adopt reasonable rules and procedures necessary to administer this subchapter.

(d) This subchapter does not grant a commissioners court or a planning commission the power to regulate the use of property for which a permit has been issued to engage in a federally licensed activity.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 25, eff. Sept. 1, 1999.

Sec. 232.093. APPOINTMENT OF MEMBERS OF PLANNING COMMISSION. (a) The commissioners court may appoint a planning commission consisting of five members. Members are appointed for staggered terms of two years.

(b) A person appointed as a member of the planning commission must be a citizen of the United States and reside in the county.

(c) The commissioners court shall file with the county clerk a certificate of appointment for each commission member.

(d) The commissioners court shall fill any vacancy on the commission.

(e) Before a planning commission member undertakes the duties of the office, the member must:

(1) take the official oath; and

(2) swear in writing that the member will promote the interest of the county as a whole and not only a private interest or the interest of a special group or location in the county.

(f) A member of the planning commission serves at the pleasure of the commissioners court and is subject to removal as provided by Chapter 87.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 25, eff. Sept. 1, 1999.

Sec. 232.094. FINANCIAL DISCLOSURE. (a) The commissioners

court of a county may require each member of the planning commission to file a financial disclosure report in the same manner as required for county officers under Subchapter B, Chapter 159.

(b) If the commissioners court requires a financial disclosure report but has not adopted a financial disclosure reporting system under Subchapter B, Chapter 159, the planning commission member shall file a financial disclosure report in the same manner as required for county officers under Subchapter A, Chapter 159.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 25, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 985 (H.B. 2112), Sec. 1, eff. September 1, 2013.

Sec. 232.095. OFFICERS, QUORUM, AND MEETINGS. (a) At the first meeting of each calendar year, the planning commission shall elect a presiding officer and assistant presiding officer. The presiding officer presides over the meetings and executes all documentation required on behalf of the planning commission. The assistant presiding officer represents the presiding officer during the presiding officer's absence.

(b) There is no limitation on the number of terms a member may serve on the commission.

(c) Minutes of the planning commission's proceedings must be filed with the county clerk or other county officer or employee designated by the commissioners court. The minutes of the planning commission's proceedings are a public record.

(d) The planning commission is subject to Chapters 551 and 552, Government Code.

(e) The planning commission may adopt rules necessary to administer this subchapter. Rules adopted under this subsection are subject to approval by the commissioners court.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 25, eff. Sept. 1, 1999.

Sec. 232.096. TIMELY APPROVAL OF PLATS. (a) The planning commission shall issue a written list of the documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement

authorized by law. An application submitted to the planning commission that contains the documents and other information on the list is considered complete.

(b) If a person submits an incomplete plat application to the planning commission, the planning commission or its designee shall, not later than the 15th business day after the date the planning commission or its designee receives the application, notify the applicant of the missing documents or other information. The planning commission or its designee shall allow an applicant to timely submit the missing documents or other information.

(c) An application is considered complete on the date all documentation and other information required by Subsection (a) is received by the planning commission.

(d) If the approval of the plat is within the exclusive jurisdiction of the planning commission, the planning commission shall take final action on a plat application, including the resolution of all appeals, not later than the 60th day after the date a completed plat application is received by the planning commission.

(e) The time period prescribed by Subsection (d) may be extended for:

(1) a reasonable period if requested by the applicant; and

(2) an additional 60 days if the county is required under Chapter 2007, Government Code, to perform a takings impact assessment in connection with a plat submitted for approval.

(f) The planning commission may not compel an applicant to waive the time limits prescribed by this section.

(g) If the planning commission fails to take final action on the completed plat application as required by this section, the applicant may apply to a district court in the county in which the land is located for a mandamus order to compel the planning commission to approve or disapprove the plat. A planning commission subject to a mandamus order under this subsection shall make a decision approving or disapproving the plat not later than the 20th business day after the date a copy of the mandamus order is served on the presiding officer of the planning commission. If the planning commission approves the plat, the planning commission, within the 20-day period prescribed by this subsection, shall:

(1) refund the greater of the unexpended portion of any plat application fee or deposit or 50 percent of a plat application fee or deposit that has been paid;

(2) determine the appropriate amount of any bond or other financial guarantee required in connection with the plat approval; and

(3) issue documents recognizing the plat's approval.

(h) Except as provided by this subsection, an approval of a plat by the planning commission is final on the 31st day after the date the planning commission votes to approve the plat. On the request of a county commissioner, the commissioners court shall review a plat approved by the planning commission not later than the 30th day after the date the planning commission votes to approve the plat. The commissioners court may disapprove the plat if the plat fails to comply with state law or rules adopted by the county or the planning commission. If the commissioners court fails to take action within the 30-day period prescribed by this subsection, the decision of the planning commission is final.

(i) In this section, "business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 25, eff. Sept. 1, 1999.

Sec. 232.097. REASONS FOR DISAPPROVAL OF PLAT REQUIRED. If the planning commission refuses to approve a plat, the planning commission shall provide to the person requesting approval a notice specifying the reason for the disapproval.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 25, eff. Sept. 1, 1999.

SUBCHAPTER E. INFRASTRUCTURE PLANNING PROVISIONS IN CERTAIN URBAN COUNTIES

Sec. 232.101. RULES. (a) By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may adopt rules governing plats and subdivisions of land within the unincorporated area of the county to promote the health, safety, morals, or general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county.

(b) Unless otherwise authorized by state law, a commissioners court shall not regulate under this section:

(1) the use of any building or property for business, industrial, residential, or other purposes;

(2) the bulk, height, or number of buildings constructed on a particular tract of land;

(3) the size of a building that can be constructed on a particular tract of land, including without limitation and restriction on the ratio of building floor space to the land square footage;

(4) the number of residential units that can be built per acre of land;

(5) a plat or subdivision in an adjoining county; or

(6) road access to a plat or subdivision in an adjoining county.

(c) The authority granted under Subsection (a) is subject to the exemptions to plat requirements provided for in Section 232.0015.

Added by Acts 2001, 77th Leg., ch. 736, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1390 (S.B. 1867), Sec. 4, eff. September 1, 2007.

Sec. 232.102. MAJOR THOROUGHFARE PLAN. By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

(1) require a right-of-way on a street or road that functions as a major thoroughfare of a width of not more than 120 feet; or

(2) require a right-of-way on a street or road that functions as a major thoroughfare of a width of more than 120 feet, if such requirement is consistent with a transportation plan adopted by the metropolitan planning organization of the region.

Added by Acts 2001, 77th Leg., ch. 736, Sec. 1, eff. Sept. 1, 2001.

Sec. 232.103. LOT FRONTAGES. By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may adopt reasonable standards for minimum lot

frontages on existing county roads and establish reasonable standards for the lot frontages in relation to curves in the road.

Added by Acts 2001, 77th Leg., ch. 736, Sec. 1, eff. Sept. 1, 2001.

Sec. 232.104. SET-BACKS. By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may establish reasonable building and set-back lines as provided by Chapter 233 without the limitation period provided by Section 233.004(c).

Added by Acts 2001, 77th Leg., ch. 736, Sec. 1, eff. Sept. 1, 2001.

Sec. 232.105. DEVELOPER PARTICIPATION CONTRACTS. (a) Without complying with the competitive sealed bidding procedure of Chapter 262, a commissioners court may make a contract with a developer of a subdivision or land in the unincorporated area of the county to construct public improvements, not including a building, related to the development. If the contract does not meet the requirements of this subchapter, Chapter 262 applies to the contract if the contract would otherwise be governed by that chapter.

(b) Under the contract, the developer shall construct the improvements, and the county shall participate in the cost of the improvements.

(c) The contract must establish the limit of participation by the county at a level not to exceed 30 percent of the total contract price. In addition, the contract may also allow participation by the county at a level not to exceed 100 percent of the total cost for any oversizing of improvements required by the county, including but not limited to increased capacity of improvements to anticipate other future development in the area. The county is liable only for the agreed payment of its share, which shall be determined in advance either as a lump sum or as a factor or percentage of the total actual cost as determined by an order of the commissioners court.

(d) The developer must execute a performance bond for the construction of the improvements to ensure completion of the project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code.

(e) In the order adopted by the commissioners court under Subsection (c), the county may include additional safeguards against undue loading of cost, collusion, or fraud.

Added by Acts 2001, 77th Leg., ch. 736, Sec. 1, eff. Sept. 1, 2001.

Sec. 232.106. CONNECTION OF UTILITIES. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may impose the requirements of Section 232.029 or 232.0291.

Added by Acts 2001, 77th Leg., ch. 736, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 10, eff. September 1, 2005.

Sec. 232.107. PROVISIONS CUMULATIVE. The authorities under this subchapter are cumulative of and in addition to the authorities granted under this chapter and all other laws to counties to regulate the subdivision of land.

Added by Acts 2001, 77th Leg., ch. 736, Sec. 1, eff. Sept. 1, 2001.

Sec. 232.108. PLAT REQUIREMENTS. (a) The commissioners court, in addition to having the authority to adopt rules under Section 232.101 and other authority granted by this chapter, may impose the plat requirements prescribed by Section 232.023. If the commissioners court imposes the plat requirements prescribed by Section 232.023, any rules adopted under Section 232.101 must be consistent with those requirements.

(b) If a county imposing the plat requirements prescribed by Section 232.023 is not described by Section 232.022(a):

(1) the document required by Section 232.023(b)(6) is not required to be in Spanish; and

(2) the plat requirements related to drainage shall be those authorized by Section 232.003(8) rather than those authorized by Section 232.023(b)(8).

Added by Acts 2007, 80th Leg., R.S., Ch. 1390 (S.B. 1867), Sec. 5, eff. September 1, 2007.

Sec. 232.109. FIRE SUPPRESSION SYSTEM. In a subdivision that is not served by fire hydrants as part of a centralized water system certified by the Texas Commission on Environmental Quality as meeting minimum standards for water utility service, the commissioners court may require a limited fire suppression system that requires a developer to construct:

(1) for a subdivision of fewer than 50 houses, 2,500 gallons of storage; or

(2) for a subdivision of 50 or more houses, 2,500 gallons of storage with a centralized water system or 5,000 gallons of storage.

Added by Acts 2007, 80th Leg., R.S., Ch. 1390 (S.B. 1867), Sec. 5, eff. September 1, 2007.

Sec. 232.110. APPORTIONMENT OF COUNTY INFRASTRUCTURE COSTS. (a) If, under any authority expressly authorized by this chapter, a county requires, including under an agreement under Chapter 242, as a condition of approval for a property development project that the developer bear a portion of the costs of county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the county. The county's determination shall be completed within thirty days following the submission of the developer's application for determination under this subsection.

(b) A developer who disputes the determination made under Subsection (a) may appeal to the commissioners court of the county. At the appeal, the developer may present evidence and testimony under procedures adopted by the commissioners court. After hearing any testimony and reviewing the evidence, the commissioners court shall make the applicable determination within 30 days following the final

submission of any testimony or evidence by the developer.

(c) A developer may appeal the determination of the commissioners court to a county or district court of the county in which the development project is located within 30 days of the final determination by the commissioners court.

(d) A county may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e) A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.

(f) This section does not diminish the authority or modify the procedures specified by Chapter 395.

(g) This section does not increase or expand, and shall not be interpreted to increase or expand, the authority of a county to regulate plats or subdivisions under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 635 (S.B. 1510), Sec. 2, eff. June 10, 2019.

SUBCHAPTER F. ABANDONED, UNOCCUPIED, AND UNDEVELOPED PLATTED LOTS IN CERTAIN COUNTIES

Sec. 232.151. APPLICABILITY. This subchapter applies to a county that:

(1) contains a municipality with a population of more than 500,000;

(2) is adjacent to an international border; and

(3) contains more than 30,000 acres of lots that have remained substantially undeveloped for more than 25 years after the date the lots were platted.

Added by Acts 2021, 87th Leg., R.S., Ch. 1010 (H.B. 1564), Sec. 2, eff. September 1, 2021.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 147, eff. September 1, 2023.

Sec. 232.152. ADMINISTRATIVE DETERMINATION. (a) In addition to the authority granted under Section 232.045, a commissioners court

may implement an expedited process to administratively determine that a platted lot is abandoned, unoccupied, and undeveloped if the lot:

(1) has remained undeveloped for 25 years or more after the date the lot was platted;

(2) is part of a subdivision in which 50 percent or more of the lots are undeveloped or unoccupied;

(3) is part of a subdivision in which 50 percent or more of the lots are 10 acres or less in size;

(4) had an assessed value of less than $1,000 as of January 1, 2021; and

(5) as of January 1, 2021, was not valued for ad valorem taxation as land for agricultural use pursuant to Subchapter C, Chapter 23, Tax Code.

(b) The county does not have an ownership interest in any lot that is administratively determined to be abandoned, unoccupied, and undeveloped or that is placed in a receivership under this subchapter, except for any existing or future legal interest established by other law.

Added by Acts 2021, 87th Leg., R.S., Ch. 1010 (H.B. 1564), Sec. 2, eff. September 1, 2021.

Sec. 232.153. PUBLIC HEARING. (a) Before a county may make an administrative determination that a platted lot is abandoned, unoccupied, and undeveloped, the county must:

(1) hold a public hearing on the matter; and

(2) make reasonable efforts to notify each owner and lienholder of the lot of the time and place of the hearing as provided by Section 232.154.

(b) The hearing may be held by the commissioners court of the county or an appropriate county commission or board appointed by the commissioners court. The Texas Rules of Evidence do not apply to a hearing conducted under this section.

(c) At the hearing, an owner or lienholder may provide testimony and present evidence to refute any of the five required elements for a determination under Section 232.152. It is an affirmative defense to a determination under Section 232.152 that a lot's ad valorem taxes have been paid in full for each year that the taxing authority issued a tax invoice.

(d) The county may conduct a single hearing for multiple lots and make a determination that multiple lots are abandoned, unoccupied, and undeveloped based on the same evidence.

(e) Not later than the 14th day after the date of the hearing, if a lot is determined to be abandoned, unoccupied, and undeveloped, the county shall issue an order of its determination.

(f) Not later than the 14th day after the date of the order, the county shall:

(1) post notice of the order at the county courthouse; and

(2) publish in a newspaper of general circulation in the county in which the lot is located a notice of the determination containing:

(A) a description of the lot;

(B) the date of the hearing;

(C) a brief statement of the results of the order;

(D) instructions stating where a complete copy of the order may be obtained; and

(E) notice that the order is appealable to a district court in the county within 60 calendar days of the order.

(g) In lieu of the notice required by Subsection (f), the county may:

(1) post the information required by Subsection (f)(2) on the county's Internet website; and

(2) publish a notice in a newspaper of general circulation in the county in which the lot is located stating that:

(A) the commissioners court has adopted an order under this subchapter; and

(B) the information required by Subsection (f)(2) may be found on the county's Internet website.

Added by Acts 2021, 87th Leg., R.S., Ch. 1010 (H.B. 1564), Sec. 2, eff. September 1, 2021.

Sec. 232.154. NOTICE OF HEARING. (a) The county shall:

(1) provide notice of the hearing to each record owner of the applicable lot and to each holder of a recorded lien against the applicable lot by:

(A) personal delivery;

(B) certified mail with return receipt requested to the

last known address of each owner and lienholder; or

(C) delivery to the last known address of each owner or lienholder by the United States Postal Service using signature confirmation services;

(2) publish notice of the hearing in a newspaper of general circulation in the county on or before the 10th day before the date of the hearing and on the county's Internet website; and

(3) file in the property records of the county notice of the hearing that contains:

(A) the name and last known address of the owner of the applicable lot; and

(B) a description of the administrative determination proceeding, including notice that the administrative determination may result in the extinguishment of any and all rights and legal interests in the lot.

(b) Notice under Subsection (a)(1) must be provided to each owner and lienholder for whom an address can be reasonably ascertained from the deed of trust or other applicable instrument on file in the office of the county clerk or in the records of the office of the central appraisal district for the county. The filed notice under Subsection (a)(3) must contain the name and address of each owner to the extent that that information can be reasonably ascertained from the deed of trust or other applicable instrument on file in the office of the county clerk or in the records of the office of the central appraisal district for the county.

(c) The filing of notice under Subsection (a)(3):

(1) is binding on subsequent grantees, lienholders, or other transferees of an interest in the platted lot who acquire that interest after the filing of the notice; and

(2) constitutes notice of the proceeding on any subsequent recipient of any interest in the platted lot who acquires that interest after the filing of the notice.

(d) An owner or lienholder is presumed to have received actual and constructive notice of the hearing if the commissioners court complies with this section, regardless of whether the commissioners court receives a response from the person.

Added by Acts 2021, 87th Leg., R.S., Ch. 1010 (H.B. 1564), Sec. 2, eff. September 1, 2021.

Sec. 232.155. JUDICIAL REVIEW. (a) Any owner or lienholder of record of a platted lot aggrieved by an order issued under Section 232.153 may file in a district court in the county in which the property is located a verified petition alleging that the decision is illegal, in whole or in part, and stating with specificity the grounds of the alleged illegality. The petition must be filed by an owner or lienholder of the lot within 60 calendar days of the order. If a petition is not filed within 60 calendar days of the order, the order shall become final.

(b) On the filing of a petition under Subsection (a), the court may issue a writ of certiorari directed to the county to review the order of the county and shall prescribe in the writ the time within which a return on the writ must be made and served on the relator or the relator's attorney.

(c) The county is not required to return the original papers acted on by it, but it is sufficient for the county to return certified or sworn copies of the papers or parts of the papers as may be called for by the writ.

(d) Appeal of the county's determination under this subchapter shall be conducted under the substantial evidence rule.

Added by Acts 2021, 87th Leg., R.S., Ch. 1010 (H.B. 1564), Sec. 2, eff. September 1, 2021.

Sec. 232.156. CIVIL ACTION FOR RECEIVERSHIP. (a) After a final determination that a platted lot is abandoned, unoccupied, and undeveloped, the county shall bring a civil action to have the lot placed in a receivership. On a final determination that a platted lot is abandoned, unoccupied, and undeveloped as provided by this subchapter, an owner or lienholder's rights and legal interests are extinguished, subject to the provisions of this subchapter regarding any net proceeds resulting from the disposition of the property, and transferred to the receiver.

(b) The only allegations required to be pleaded in an action for receivership brought under this section are:

(1) the identification of the applicable lot;

(2) the relationship of the defendant to the real property;

(3) the notice of the administrative hearing given to the owner; and

(4) the administrative determination that the lot has been abandoned, unoccupied, and undeveloped.

(c) The court may appoint as receiver any person with a demonstrated record of knowledge of the problems created by abandoned, unoccupied, and undeveloped platted lots. In selecting a receiver, the court may also take into consideration whether the person owns property in the affected area. The court may not appoint the county, a county official or county employee, or a relative of a county official or county employee within the third degree of consanguinity or affinity as a receiver.

(d) In a civil action under this subchapter, the record owners and any lienholders of record of the lot shall be served with personal notice of the proceedings as provided by the Texas Rules of Civil Procedure. Service on the record owners or lienholders constitutes notice to all unrecorded owners or lienholders.

Added by Acts 2021, 87th Leg., R.S., Ch. 1010 (H.B. 1564), Sec. 2, eff. September 1, 2021.

Sec. 232.157. AUTHORITY AND DUTY OF RECEIVER. (a) Unless inconsistent with this chapter or other law, the rules of equity govern all matters relating to the appointment, powers, duties, and liabilities of a receiver and to the powers of a court regarding a receiver. A receiver appointed by the court may:

(1) take control of the platted lot;

(2) make or have made any repairs or improvements to the platted lot to make the lot developable;

(3) make provisions for the platted lot to be subject to street, road, drainage, utility, and other infrastructure requirements;

(4) aggregate the platted lot with other lots that have been similarly determined to be abandoned, unoccupied, and undeveloped;

(5) re-plat the platted lot;

(6) accept the grant or donation of any lot within the affected area to carry out the purpose of this subchapter; and

(7) exercise all other authority that an owner of the platted lot could have exercised, including the authority to sell the lot.

(b) Before a person assumes the duties of a receiver, the person must be sworn to perform the duties faithfully.

(c) The appointed receiver is an officer of the court.

(d) If a receiver dies, resigns, or becomes incapacitated, the court shall appoint a receiver to succeed the former receiver.

(e) If the donation of a lot to the receiver is not challenged before the first anniversary of the donation date, the donation is final and not revocable under any other legal proceeding.

(f) All funds that come into the hands of the receiver shall be deposited in a place in this state directed by the court. The receiver's use of the funds in connection with the receiver's duties or authority under this subchapter shall be subject to the approval of the court. All net proceeds from the disposition of a lot by the receiver shall be placed in trust and remain in trust for at least three years, unless claimed before the expiration of the trust period. The court must order additional notices to an owner or lienholder about the net proceeds as are practicable during the trust period and, on expiration of the trust period, any money remaining in the receivership shall escheat to the state. Funds escheated to the state under this subchapter are subject to disposition or recovery under Subchapters C and D, Chapter 71, Property Code.

(g) After the receiver has improved the platted lot to the degree that the lot is developable and meets all applicable standards, or before petitioning the court for termination of the receivership, the receiver shall file with the court:

(1) a summary and accounting of all costs and expenses incurred, which may, at the receiver's discretion, include a receivership fee of up to 15 percent of the costs and expenses incurred, unless the court, for good cause shown, authorizes a different limit;

(2) a statement describing the disposition of each lot, including whether the lot was aggregated with other lots;

(3) a statement of all revenues collected by the receiver in connection with the use or disposition of the lots; and

(4) to the extent required by the court, a description of any undivided interest of an owner or lienholder, whether identified or not, in the net proceeds from the disposition of the property.

(h) The court must approve any sale of the property by the receiver.

(i) A receiver shall have a lien on the property under

receivership for all of the receiver's unreimbursed costs and expenses and any receivership fee as detailed in the summary and accounting under Subsection (g)(1).

Added by Acts 2021, 87th Leg., R.S., Ch. 1010 (H.B. 1564), Sec. 2, eff. September 1, 2021.

Sec. 232.158. SALE OF PROPERTY. (a) A sale under this subchapter must be made by:

(1) public auction;

(2) sealed bid; or

(3) sealed proposal.

(b) Before a sale may take place under this subchapter, the receiver must publish notice of the proposed sale before the 60th day before the date the sale is to be held and again before the 30th day before the date the sale is to be held. The notice must be published in English and Spanish in a newspaper of general circulation in the county in which the real property is located. The notice must:

(1) clearly identify the property to be sold;

(2) specify the procedures and date for the public auction, sealed bid, or sealed proposal method of sale;

(3) state the minimum bid for the property, if any;

(4) state any specific financial terms of sale imposed by the receiver; and

(5) describe the restrictions, conditions, and limitations on the use of the property that the receiver has determined are appropriate, other than the restrictions, conditions, and limitations provided by other law.

(c) In addition to the notice required by Subsection (b), to maximize the price at which the property is sold and the number of bidders, the receiver shall exercise best efforts to provide notice of the proposed sale to those persons who may have the business expertise, financial capability, and interest in developing the property, including local, state, and national trade associations whose members are development, real estate, or financial professionals.

(d) On the closing of a sale of property under this subchapter, fee simple title shall be vested in the purchaser.

(e) The receiver may reject any and all offers. If the

receiver rejects all offers, the receiver may subsequently reoffer the same property for sale, reorganize the property and offer the property for sale, or combine all or part of the property with other property and offer the combined property for sale.

(f) If the procedures in this section are followed and a sale occurs, the sale price obtained for the property is conclusive as to the fair market value of the property at the time of the sale.

Added by Acts 2021, 87th Leg., R.S., Ch. 1010 (H.B. 1564), Sec. 2, eff. September 1, 2021.

SUBCHAPTER G. SUBDIVISION PLATTING REQUIREMENTS IN CERTAIN COUNTIES NEAR INTERNATIONAL BORDER AND GULF OF MEXICO

Sec. 232.201. DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Water Development Board.

(2) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or a group of subdividers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land; or

(B) known, designated, or advertised as a common unit or by a common name.

(3) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(4) "Floodplain" means any area in the 100-year floodplain that is susceptible to being inundated by water from any source or that is identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.).

(5) "Lease" includes an offer to lease.

(6) "Lot" means a parcel into which land is divided.

(7) "Lot of record" means:

(A) a lot, the boundaries of which were established by a plat recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989; or

(B) a lot, the boundaries of which were established by a metes and bounds description in a deed of conveyance, a contract of sale, or other executory contract to convey real property that has been legally executed and recorded in the office of the county clerk

before September 1, 1989, that has not been subdivided after September 1, 1989.

(8) "Minimum state standards" means the minimum standards set out for:

(A) adequate drinking water by or under Section 16.343(b)(1), Water Code;

(B) adequate sewer facilities by or under Section 16.343(c)(1), Water Code; or

(C) the treatment, disposal, and management of solid waste by or under Chapters 361 and 364, Health and Safety Code.

(9) "Plat" means a map, chart, survey, plan, or replat containing a description of the subdivided land with ties to permanent landmarks or monuments.

(10) "Sell" includes an offer to sell.

(11) "Sewer," "sewer services," or "sewer facilities" means treatment works as defined by Section 17.001, Water Code, or individual, on-site, or cluster treatment systems such as septic tanks and includes drainage facilities and other improvements for proper functioning of septic tank systems.

(12) "Subdivide" means to divide the surface area of land into lots.

(13) "Subdivider" means an individual, firm, corporation, or other legal entity that directly or indirectly subdivides land into lots for sale or lease as part of a common promotional plan in the ordinary course of business.

(14) "Subdivision" means an area of land that has been subdivided into lots for sale or lease.

(15) "Utility" means a person, including a legal entity or political subdivision, that provides the services of:

(A) an electric utility, as defined by Section 31.002, Utilities Code;

(B) a gas utility, as defined by Section 101.003, Utilities Code; or

(C) a water and sewer utility, as defined by Section 13.002, Water Code.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.202. APPLICABILITY. (a) This subchapter applies only to a county that borders:

(1) the United Mexican States; and

(2) the Gulf of Mexico.

(b) This subchapter applies only to land that is subdivided into two or more lots of which at least one lot is less than five acres in area. This subchapter does not apply if the subdivision:

(1) is incident to the conveyance of the land as a gift between persons related to each other within the third degree by affinity or consanguinity, as determined under Chapter 573, Government Code; or

(2) has received an exemption from a county under Section 16.350(d), Water Code.

(c) Except as provided by Subsection (d), for purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of municipalities.

(d) Land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

(e) This subchapter does not apply if all of the lots of the subdivision are five acres or more in area.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.203. PLAT REQUIRED. (a) A subdivider of land must have a plat of the subdivision prepared if at least one of the lots of the subdivision is less than five acres. A commissioners court may require each subdivider of land to prepare a plat if none of the lots is less than five acres but at least one of the lots of a subdivision is more than five acres but not more than 10 acres.

(b) A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by

using a metes and bounds description.

(c) A plat required under this section must:

(1) be certified by a surveyor or engineer registered to practice in this state;

(2) define the subdivision by metes and bounds;

(3) locate the subdivision with respect to an original corner of the original survey of which it is a part;

(4) describe each lot, number each lot in progression, and give the dimensions of each lot;

(5) state the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part;

(6) include or have attached a document containing a description in English and Spanish of the water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operable;

(7) have attached a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities proposed under Subdivision (6) are in compliance with the model rules adopted under Section 16.343, Water Code, and a certified estimate of the cost to install water and sewer service facilities;

(8) provide for drainage in the subdivision to:

(A) avoid concentration of storm drainage water from each lot to adjacent lots;

(B) provide positive drainage away from all buildings; and

(C) coordinate individual lot drainage with the general storm drainage pattern for the area;

(9) include a description of the drainage requirements as provided in Subdivision (8);

(10) identify the topography of the area;

(11) include a certification by a surveyor or engineer registered to practice in this state describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain; and

(12) include certification that the subdivider has complied with the requirements of Section 232.216 and that:

(A) the water quality and connections to the lots meet, or will meet, the minimum state standards;

(B) sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards;

(C) electrical connections provided to the lot meet, or will meet, the minimum state standards; and

(D) gas connections, if available, provided to the lot meet, or will meet, the minimum state standards.

(d) A subdivider may meet the requirements of Subsection (c)(12)(B) through the use of a certificate issued by the appropriate county or state official having jurisdiction over the approval of septic systems stating that lots in the subdivision can be adequately and legally served by septic systems.

(e) The subdivider of the tract must acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat.

(f) The plat must be filed and recorded with the county clerk of the county in which the tract is located. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

(g) The commissioners court may require a plat application submitted for approval to include a digital map that is compatible with other mapping systems used by the county and that georeferences the subdivision plat and related public infrastructure using the Texas Coordinate Systems adopted under Section 21.071, Natural Resources Code. A digital map required under this subsection may be required only in a format widely used by common geographic information system software. A requirement adopted under this subsection must provide for an exemption from the requirement if the subdivider of the tract submits with the plat application an acknowledged statement indicating that the digital mapping technology necessary to submit a map that complies with this subsection was not reasonably accessible.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.204. EXCEPTIONS TO PLAT REQUIREMENT. (a) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) the lots are sold to adjoining landowners; and

(2) the lots are added to the adjoining parcel of land owned by the purchasers.

(b) The purchaser of a lot described by Subsection (a) shall provide to the commissioners court a metes and bounds description of the adjoining parcel of land owned by the purchaser that has been updated to reflect the addition of the purchased lot to the adjoining parcel of land.

(c) A county may, subject to Subsection (d), in its sole discretion and on a determination that good cause exists, grant an exception to the plat requirements of this subchapter for an individual lot that the county determines:

(1) is located within 50 feet of a connection to a municipal water service;

(2) is adjacent to a public road;

(3) has either:

(A) sufficient space to accommodate a sewer service facility that complies with the model rules adopted under Section 16.343, Water Code; or

(B) a connection to an existing public sewer service within 50 feet; and

(4) a civil engineer registered to practice in this state and not affiliated with the owner of the lot has certified:

(A) has adequate drainage; and

(B) is not in a floodplain.

(d) Before granting an exception under Subsection (c), the commissioners court must make a finding that specifies the reasons for the court's determination that:

(1) good cause exists to grant the exception; and

(2) the lot meets the requirements for the exception under Subsection (c).

(e) The commissioners court shall enter in the record of the court's proceedings:

(1) the court's findings under Subsection (d); and

(2) the information submitted to the court to support the court's determination under Subsection (c).

(f) The commissioners court may adopt rules and procedures necessary to administer and enforce this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.205. APPROVAL BY COUNTY REQUIRED. (a) A plat filed under Section 232.203 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk.

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless:

(1) the subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code; and

(2) the plat evidences a restrictive covenant prohibiting the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code.

(c) On request, the county clerk shall provide the attorney general or the Texas Water Development Board:

(1) a copy of each plat that is approved under this subchapter; or

(2) the reasons in writing and any documentation that support a variance granted under Section 232.226.

(d) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.218 relating to conflicts of interest.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff.

September 1, 2025.

Sec. 232.206. DELEGATION OF APPROVAL RESPONSIBILITY. (a) The commissioners court of a county or the court's designee may delegate to one or more officers or employees of the county the ability to approve, approve with conditions, or disapprove a plat that:

(1) is amending a plat under Section 232.011; or

(2) involves four or fewer lots that each meet the requirements under Section 232.204(c).

(b) An applicant has the right to appeal to the commissioners court or the court's designee if the designated person disapproves a plat.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.207. SUBDIVISION REQUIREMENTS. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in English and Spanish in a newspaper of general circulation in the county, the commissioners court shall for each subdivision:

(1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a

subdivider and a purchaser of land in the subdivision contain a statement describing how and when water, sewer, electricity, and gas services will be made available to the subdivision; and

(7) require that the subdivider of the tract execute a bond in the manner provided by Section 232.209.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.208. WATER AND SEWER SERVICE EXTENSION. (a) The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest.

(b) The commissioners court may not grant an extension under Subsection (a) if it would allow an occupied residence to be without water or sewer services.

(c) If the commissioners court provides an extension, the commissioners court shall notify the attorney general of the extension and the reason for the extension. The attorney general shall notify all other state agencies having enforcement power over subdivisions of the extension.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.209. BOND REQUIREMENTS. (a) Except as provided by Subsection (c), unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.205, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the FDIC. The subdivider must comply with the requirement before

subdividing the tract.

(b) A bond required by this section must, for a bond for construction of water and sewer service facilities, be conditioned on the construction or installation of facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.

(c) The commissioners court may, in its sole discretion, allow a person to stop maintaining a bond for construction of sewer service facilities under this section for a lot that does not have an installed sewer service facility if:

(1) the person has completed the installation of all water facilities and roads and streets required by this subchapter;

(2) the owner of the lot has not resided on the lot for a period of 60 months after the date of execution of the deed to the owner;

(3) the person delivers to the commissioners court an affidavit as described by Subsection (d) from the owner; and

(4) the lot has sufficient space to accommodate a sewage facility that complies with Chapter 366, Health and Safety Code, and the construction standards for On-Site Sewage Facilities adopted by the Texas Commission on Environmental Quality and other law and rules applicable to sewage facilities.

(d) The affidavit under Subsection (c)(3) must include language substantially similar to the following:

"I understand that the seller of my lot is obligated to install an on-site sewage facility on the lot or maintain a bond for the installation of an on-site sewage facility for a period of 60 months after the date I purchased the lot. I affirm that I have not resided on my lot for the previous 60 months. I understand that I may not be eligible to receive water or electricity service unless I install a septic facility on my lot. I voluntarily assume all financial responsibility to hire a licensed installer to install an on-site sewage facility that complies with:

(1) Subchapter G, Chapter 232, Local Government Code, regarding subdivision platting requirements;

(2) the model rules adopted under Section 16.343(c), Water Code, regarding septic systems;

(3) Chapter 366, Health and Safety Code; and

(4) the construction standards for On-Site Sewage Facilities adopted by the Texas Commission on Environmental Quality

and other law and rules applicable to sewage facilities."

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.210. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS. (a) On the approval of a plat by the commissioners court, the commissioners court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court.

(b) On the commissioners court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the lot or subdivision under Section 232.203 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under Section 232.203 and are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility or lots in the subdivision can be adequately and legally served by septic systems under Section 232.203; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under Section 232.203.

(c) The request made under Subsection (b) must identify the land that is the subject of the request.

(d) Whenever a request is made under Subsection (b), the commissioners court shall issue the requesting party a written certification of its determinations under that subsection.

(e) The commissioners court shall make its determinations within 20 days after the date it receives the request under Subsection (b) and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.

(f) The commissioners court may adopt rules it considers necessary to administer its duties under this section.

(g) The commissioners court may impose a fee for a certificate issued under this section for a subdivision which is located in the county and not within the limits of a municipality. The amount of the fee may be the greater of $30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115. A person who obtains a certificate under this section is not required to obtain a certificate under Section 212.0115.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.211. CONNECTION OF UTILITIES. (a) Except as provided by Subsection (c) or Section 232.221(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.210(a) or receives a determination from the commissioners court under Section 232.210(b)(1) that the plat has been reviewed and approved by the commissioners court.

(b) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.210(a) or receives a determination from the commissioners court under Section 232.210(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A);

(C) is the site of construction of a residence,

evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 2003; and

(D) has had adequate sewer services installed to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code; or

(3) the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(c) A utility may provide utility service to subdivided land described by Subsection (b)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (b).

(d) A person requesting service may obtain a certificate under Subsection (b)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider before September 1, 1995, or before September 1, 1999, as applicable under Subsection (b);

(2) a notarized affidavit by that person requesting service under Subsection (b)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (b)(1)(C);

(3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, or September 1, 1999, as applicable under Subsection (b); and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Section 232.201(15) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code.

(e) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(f) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(g) The prohibition established by this section shall not prohibit a water, sewer, electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that has adequate sewer services installed that are fully operable to service the lot, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code, and was subdivided by a plat approved prior to September 1, 1989.

(h) In this section, "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(i) Subject to Subsections (j) and (k), a utility that does not hold a certificate issued by, or has not received a determination from, the commissioners court under Section 232.210 to serve or connect subdivided property with water, sewer, electricity, or gas may provide that service to a single-family residential dwelling on that property if:

(1) the person requesting utility service is the owner and occupant of the residential dwelling;

(2) the utility previously provided the utility service to the property for the person requesting the service;

(3) the utility service provided as described by Subdivision (2) was terminated not earlier than five years before the date on which the person requesting utility service submits an application for that service; and

(4) providing the utility service will not result in:

(A) an increase in the volume of utility service provided to the property; or

(B) more than one utility connection for each single-family residential dwelling located on the property.

(j) A utility may provide service under Subsection (i) only if the person requesting the service provides to the commissioners court documentation that evidences compliance with the requirements of Subsection (i) and that is satisfactory to the commissioners court.

(k) A utility may not serve or connect subdivided property as described by Subsection (i) if, on or after September 1, 2007, any existing improvements on that property are modified.

(l) Except as provided by Subsection (m), this section does not prohibit a water or sewer utility from providing water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots;

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the municipality with jurisdiction over the project or the approval of plats within the project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code, if applicable.

(m) A utility may not serve any subdivided land with water

utility connection or service under Subsection (l) unless the entity receives a determination from the county commissioners court under Section 232.210(b)(3) that adequate sewer services have been installed to service the lot or dwelling.

(n) The commissioners court may impose a fee for a certificate issued under this section for a subdivision which is located in the county and not within the limits of a municipality. The amount of the fee may be the greater of $30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115. A person who obtains a certificate under this section is not required to obtain a certificate under Section 212.0115.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.212. SUBDIVISION REGULATION; COUNTY AUTHORITY. (a) The commissioners court for each county shall adopt and enforce the model rules developed under Section 16.343, Water Code.

(b) Except as provided by Section 16.350(d), Water Code, or Section 232.226 or 232.227 of this code, the commissioners court may not grant a variance or adopt regulations that waive any requirements of this subchapter.

(c) The commissioners court shall adopt regulations setting forth requirements for:

(1) potable water sufficient in quality and quantity to meet minimum state standards;

(2) solid waste disposal meeting minimum state standards and rules adopted by the county under Chapter 364, Health and Safety Code;

(3) sufficient and adequate roads that satisfy the standards adopted by the county;

(4) sewer facilities meeting minimum state standards;

(5) electric service and gas service; and

(6) standards for flood management meeting the minimum standards set forth by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.).

(d) In adopting regulations under Subsection (c)(2), the commissioners court may allow one or more commercial providers to provide solid waste disposal services as an alternative to having the service provided by the county.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.213. COUNTY INSPECTOR. (a) The commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations adopted under this subchapter, Section 16.343, Water Code, or other law.

(b) Fees collected under this section may be used only to fund inspections conducted under this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.214. REQUIREMENTS PRIOR TO SALE OR LEASE. (a) A subdivider may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.205.

(b) Not later than the 30th day after the date a lot is sold, a subdivider shall record with the county clerk all sales contracts, including the attached disclosure statement required by Section 232.217, leases, and any other documents that convey an interest in the subdivided land.

(c) A document filed under Subsection (b) is a public record.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.215. NOTICE OF WATER AND WASTEWATER REQUIREMENTS BY POLITICAL SUBDIVISIONS. (a) This section applies only to a county or other political subdivision located in the county that sells real property:

(1) under Section 34.01, Tax Code; or

(2) taken by virtue of a writ of execution under Section 3, Part VI, Texas Rules of Civil Procedure, and Chapter 34, Civil Practice and Remedies Code.

(b) A county or other political subdivision located in the county shall include in the public notice of sale of the property and the deed conveying the property a statement substantially similar to the following:

"THIS SALE IS BEING CONDUCTED PURSUANT TO STATUTORY OR JUDICIAL REQUIREMENTS. BIDDERS WILL BID ON THE RIGHTS, TITLE, AND INTERESTS, IF ANY, IN THE REAL PROPERTY OFFERED.

"THE PROPERTY IS SOLD AS IS, WHERE IS, AND WITHOUT ANY WARRANTY, EITHER EXPRESS OR IMPLIED. NEITHER THE SELLER NOR THE SHERIFF'S DEPARTMENT WARRANTS OR MAKES ANY REPRESENTATIONS ABOUT THE PROPERTY'S TITLE, CONDITION, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. BUYERS ASSUME ALL RISKS.

"IN SOME SITUATIONS, A LOT OF FEWER THAN FIVE ACRES IS PRESUMED TO BE INTENDED FOR RESIDENTIAL USE. HOWEVER, IF THE PROPERTY LACKS WATER OR WASTEWATER SERVICE, THE PROPERTY MAY NOT QUALIFY FOR RESIDENTIAL USE. A POTENTIAL BUYER WHO WOULD LIKE MORE INFORMATION SHOULD MAKE ADDITIONAL INQUIRIES OR CONSULT WITH PRIVATE COUNSEL."

(c) The statement required by Subsection (b) must be:

(1) printed:

(A) in English and Spanish; and

(B) in 14-point boldface type or 14-point uppercase typewritten letters; and

(2) read aloud at the sale, in English and Spanish, by an agent of the county.

(d) A sale conducted in violation of this section is void.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.216. SERVICES PROVIDED BY SUBDIVIDER. A subdivider having an approved plat for a subdivision shall:

(1) furnish a certified letter from the utility provider stating that water is available to the subdivision sufficient in quality and quantity to meet minimum state standards required by Section 16.343, Water Code, and consistent with the certification in

the letter, and that water of that quality and quantity will be made available to the point of delivery to all lots in the subdivision;

(2) furnish sewage treatment facilities that meet minimum state standards to fulfill the wastewater requirements of the subdivision or furnish certification by the appropriate county or state official having jurisdiction over the approval of the septic systems indicating that lots in the subdivision can be adequately and legally served by septic systems as provided under Chapter 366, Health and Safety Code;

(3) furnish roads satisfying minimum standards as adopted by the county;

(4) furnish adequate drainage meeting standard engineering practices; and

(5) make a reasonable effort to have electric utility service and gas utility service installed by a utility.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.217. ADVERTISING STANDARDS AND OTHER REQUIREMENTS BEFORE SALE; OFFENSE. (a) Brochures, publications, and advertising of any form relating to subdivided land:

(1) may not contain any misrepresentation; and

(2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities.

(b) The subdivider shall provide a copy in Spanish of all written documents relating to the sale of subdivided land under an executory contract, including the contract, disclosure notice, and annual statement required by this section and a notice of default required by Subchapter D, Chapter 5, Property Code, if:

(1) negotiations that precede the execution of the executory contract are conducted primarily in Spanish; or

(2) the purchaser requests the written documents to be provided in Spanish.

(c) Before an executory contract is signed by the purchaser, the subdivider shall provide the purchaser with a written notice, which must be attached to the executory contract, informing the

purchaser of the condition of the property that must, at a minimum, be executed by the subdivider and purchaser, be acknowledged, and contain language substantially similar to the following:

IF ANY OF THE ITEMS BELOW HAVE NOT BEEN CHECKED, YOU MAY NOT BE ABLE TO LIVE ON THE PROPERTY.

WARNING

CONCERNING THE PROPERTY AT (street address or legal description and municipality)

THIS DOCUMENT STATES THE TRUE FACTS ABOUT THE LAND YOU ARE CONSIDERING PURCHASING.

CHECK OFF THE ITEMS THAT ARE TRUE:

___ The property is in a recorded subdivision.

___ The property has water service that provides potable water.

___ The property has sewer service or a septic system.

___ The property has electric service.

___ The property is not in a flood-prone area.

___ The roads are paved.

___ No person other than the subdivider:

(1) owns the property;

(2) has a claim of ownership to the property; or

(3) has an interest in the property.

___ No person has a lien filed against the property.

___ There are no back taxes owed on the property.

NOTICE

SELLER ADVISES PURCHASER TO:

(1) OBTAIN A TITLE ABSTRACT OR TITLE COMMITMENT REVIEWED BY AN ATTORNEY BEFORE SIGNING A CONTRACT OF THIS TYPE; AND

(2) PURCHASE AN OWNER'S POLICY OF TITLE INSURANCE COVERING THE PROPERTY.

_____

(Date) (Signature of Subdivider)

_____

(Date) (Signature of Purchaser)

(d) The subdivider shall provide any purchaser who is sold a lot under an executory contract with an annual statement in January of each year for the term of the executory contract. If the subdivider mails the statement to the purchaser, the statement must be postmarked not later than January 31.

(e) The statement under Subsection (d) must include the following information:

(1) the amount paid under the contract;

(2) the remaining amount owed under the contract;

(3) the annual interest rate charged under the contract during the preceding 12-month period; and

(4) the number of payments remaining under the contract.

(f) If the subdivider fails to comply with Subsections (d) and (e), the purchaser may:

(1) notify the subdivider that the purchaser has not received the statement and will deduct 15 percent of each monthly payment due until the statement is received; and

(2) not earlier than the 25th day after the date the purchaser provides the subdivider notice under this subsection, deduct 15 percent of each monthly payment due until the statement is received by the purchaser.

(g) A purchaser who makes a deduction under Subsection (f) is not required to reimburse the subdivider for the amount deducted.

(h) A person who is a seller of lots in a subdivision, or a subdivider or an agent of a seller or subdivider, commits an offense if the person knowingly authorizes or assists in the publication, advertising, distribution, or circulation of any statement or representation that the person knows is false concerning any subdivided land offered for sale or lease. An offense under this section is a Class A misdemeanor.

(i) A person who holds a real estate broker's or sales agent's license under Chapter 1101, Occupations Code, acting in the person's capacity as a real estate broker or sales agent, other than a person who is a director, officer, or employee of the seller or subdivider or who is otherwise affiliated with the seller or subdivider, is not an agent of a seller or subdivider for purposes of this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.218. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided into tracts or lots. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has an interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract;

(2) acts as a developer of the tract;

(3) owns voting stock or shares of a business entity that:

(A) has an equitable or legal ownership interest in the tract; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year money or any thing of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an interest in the tract.

(d) If a member of the commissioners court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

(g) A conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.219. CIVIL PENALTIES. (a) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) Notwithstanding any other remedy at law or equity, a subdivider or an agent of a subdivider may not cause, suffer, allow,

or permit any part of a subdivision over which the subdivider or an agent of the subdivider has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

(c) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than $500 or more than $1,000 for each violation and for each day of a continuing violation but not to exceed $5,000 each day and shall also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(d) Except as provided by Subsection (e), a person who violates Subsection (a) or (b) is subject to a civil penalty of not less than $10,000 or more than $15,000 for each lot conveyed or each subdivision that becomes a nuisance. The person must also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(e) A person who violates Subsection (b) is not subject to a fine under Subsection (d) if the person corrects the nuisance not later than the 30th day after the date the person receives notice from the attorney general or a local health authority of the nuisance.

(f) Venue for an action under this section is in a district court of Travis County, a district court in the county in which the defendant resides, or a district court in the county in which the violation or threat of violation occurs.

(g) A person who holds a real estate broker's or sales agent's license under Chapter 1101, Occupations Code, acting in the person's capacity as a real estate broker or sales agent, other than a person who is a director, officer, or employee of the seller or subdivider or who is otherwise affiliated with the seller or subdivider, is not an agent of a seller or subdivider for purposes of this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.220. CRIMINAL PENALTIES. (a) A subdivider commits an offense if the subdivider knowingly fails to file a plat required by this subchapter. An offense under this subsection is a Class A misdemeanor.

(b) A subdivider who owns a subdivision commits an offense if the subdivider knowingly fails to timely provide for the construction or installation of water or sewer service as required by Section 232.216 or fails to make a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.216. An offense under this subsection is a Class A misdemeanor.

(c) If it is shown at the trial of an offense under Subsection (a) that the defendant caused five or more residences in the subdivision to be inhabited, the offense is a state jail felony.

(d) A subdivider commits an offense if the subdivider allows the conveyance of a lot in the subdivision without the appropriate water and sewer utilities as required by Section 232.216 or without having made a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.216. An offense under this section is a Class A misdemeanor. Each lot conveyed constitutes a separate offense.

(e) Venue for prosecution for a violation under this section is in the county in which any element of the violation is alleged to have occurred or in Travis County.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.221. ENFORCEMENT. (a) The attorney general, or the district attorney, criminal district attorney, county attorney with felony responsibilities, or county attorney of the county may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:

(1) enjoin the violation or threatened violation of the model rules adopted under Section 16.343, Water Code;

(2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the commissioners court under this subchapter;

(3) recover civil or criminal penalties, attorney's fees,

litigation costs, and investigation costs; and

(4) require platting or replatting under Section 232.224.

(b) The attorney general, at the request of the district or county attorney with jurisdiction, may conduct a criminal prosecution under Section 232.217(h) or 232.220.

(c) During the pendency of any enforcement action brought, any resident of the affected subdivision, or the attorney general, district attorney, or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of pre-existing utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that termination poses a threat to public health, safety, or welfare of the residents.

(d) This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.

(e) A court having jurisdiction of an enforcement action under this section shall dismiss the action if the defendant:

(1) remedies the violation that is the subject of the enforcement action not later than the 45th day after the date the defendant receives notice of the action; and

(2) shows good cause for the dismissal.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.222. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. A person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void, require the subdivider to return the purchase price of the property, and recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees; or

(2) enjoin a violation or threatened violation of Section 232.032, require the subdivider to plat or replat under Section 232.040, and recover from the subdivider:

(A) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(B) court costs; and

(C) reasonable attorney's fees.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.223. CANCELLATION OF SUBDIVISION. (a) A subdivider of land may apply to the commissioners court to cancel all or part of the subdivision in the manner provided by Section 232.008 after notice and hearing as provided by this section.

(b) A resident of a subdivision for which the subdivider has applied for cancellation under Subsection (a) has the same rights as a purchaser of land under Section 232.008.

(c) The notice required by Section 232.008(c) must also be published in Spanish in the newspaper of highest circulation and in a Spanish-language newspaper in the county if available.

(d) Not later than the 14th day before the date of the hearing, the county chief appraiser shall by regular and certified mail provide notice containing the information described by Section 232.008(c) to:

(1) each person who pays property taxes in the subdivision, as determined by the most recent tax roll; and

(2) each person with an interest in the property.

(e) The commissioners court may require a subdivider to provide the court with the name and last known address of each person with an interest in the property. For purposes of this subsection, a person residing on a lot purchased through an executory contract has an interest in the property.

(f) A person who fails to provide information requested under Subsection (e) before the 31st day after the date the request is made

is liable to the state for a penalty of $500 for each week the person fails to provide the information.

(g) The commissioners court may cancel a subdivision only after a public hearing. At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the commissioners court shall adopt an order on whether to cancel the subdivision.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.224. REPLATTING. (a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.225.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is platted or replatted as required by this subchapter. A subdivider or agent of a subdivider may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.064, Property Code; or

(2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of this subchapter.

(c) Subsection (b) does not apply if a seller other than a subdivider or agent of a subdivider resides on the lot.

(d) The attorney general or a district or county attorney with jurisdiction may bring a proceeding under Subsection (b).

(e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Section 232.211.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.225. REVISION OF PLAT. (a) A person who has subdivided land that is subject to the subdivision controls of the county in which the land is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat filed for record with the county clerk.

(b) Except as provided by Subsection (c), after the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. If all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(c) If the commissioners court determines that the revision to the subdivision plat does not affect a public interest or public property of any type, including, but not limited to, a park, school, or road, the notice requirements under Subsection (b) do not apply to the application and the commissioners court shall:

(1) provide written notice of the application to the owners of the lots that are within 200 feet of the subdivision plat to be revised, as indicated in the most recent records of the central appraisal district of the county in which the lots are located; and

(2) if the county maintains an Internet website, post notice of the application continuously on the website for at least 30 days preceding the date of the meeting to consider the application until the day after the meeting.

(d) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or

(2) each owner whose rights may be interfered with has

agreed to the revision.

(e) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

(f) The commissioners court may impose a fee for filing an application under this section. The amount of the fee must be based on the cost of processing the application, including publishing the notices required under Subsection (b) or (c).

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.226. VARIANCES FROM REPLATTING REQUIREMENTS. (a) On request of a subdivider or resident purchaser, the commissioners court may grant a delay or a variance from compliance with Section 232.224 as provided by this section.

(b) The commissioners court may grant a delay of two years if the reason for the delay is to install utilities. A person may apply for one renewal of a delay under this subsection. To obtain an initial delay under this subsection, a subdivider must:

(1) identify the affected utility providers;

(2) provide the terms and conditions on which service may be provided; and

(3) provide a certified letter from each utility provider stating that it has the right to serve the area and it will serve the area.

(c) The commissioners court may grant a delay or a variance for a reason other than a reason described by Subsection (b) if it is shown that compliance would be impractical or would be contrary to the health and safety of residents of the subdivision. The commissioners court must issue written findings stating the reasons why compliance is impractical.

(d) A delay or a variance granted by the commissioners court is valid only if the commissioners court notifies the attorney general of the delay or variance and the reasons for the delay or variance not later than the 30th day after the date the commissioners court grants the delay or variance.

(e) Until approved water and sewer services are made available

to the subdivision, the subdivider of land for which a delay is granted under this section must provide at no cost to residents:

(1) 25 gallons of potable water a day for each resident and a suitable container for storing the water; and

(2) suitable temporary sanitary wastewater disposal facilities.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.227. VARIANCES FROM PLATTING REQUIREMENTS. (a) On the request of a subdivider who created an unplatted subdivision or a resident purchaser of a lot in the subdivision, the commissioners court of a county may grant:

(1) a delay or variance from compliance with the subdivision requirements prescribed by Section 232.203(c)(8) or (9), 232.207(1), (2), (3), (4), or (5), or 232.212(c)(2), (3), (5), or (6); or

(2) a delay or variance for an individual lot from compliance with the requirements prescribed by the model subdivision rules adopted under Section 16.343, Water Code, for:

(A) the distance that a structure must be set back from roads or property lines; or

(B) the number of single-family, detached dwellings that may be located on a lot.

(b) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the commissioners court may grant a delay or variance under this section only if:

(1) a majority of the lots in the subdivision were sold before September 1, 1995;

(2) a majority of the resident purchasers in the subdivision sign a petition supporting the delay or variance;

(3) the person requesting the delay or variance submits to the commissioners court:

(A) a description of the water and sewer service facilities that will be constructed or installed to service the subdivision;

(B) a statement specifying the date by which the water

and sewer service facilities will be fully operational; and

(C) a statement signed by an engineer licensed in this state certifying that the plans for the water and sewer facilities meet the minimum state standards;

(4) the commissioners court finds that the unplatted subdivision at the time the delay or variance is requested is developed in a manner and to an extent that makes compliance with specific platting requirements impractical or contrary to the health or safety of the residents of the subdivision; and

(5) the subdivider who created the unplatted subdivision has not violated local law, federal law, or state law, excluding this chapter, in subdividing the land for which the delay or variance is requested, if the subdivider is the person requesting the delay or variance.

(c) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision owns property in the subdivision, the commissioners court may grant a provisional delay or variance only if the requirements of Subsection (b) are satisfied. The commissioners court may issue a final grant of the delay or variance only if the commissioners court has not received objections from the attorney general before the 91st day after the date the commissioners court submits the record of its proceedings to the attorney general as prescribed by Subsection (d).

(d) If the commissioners court grants a delay or variance under this section, the commissioners court shall:

(1) make findings specifying the reason compliance with each requirement is impractical or contrary to the health or safety of residents of the subdivision;

(2) keep a record of its proceedings and include in the record documentation of the findings and the information submitted under Subsection (b); and

(3) submit a copy of the record to the attorney general.

(e) The failure of the attorney general to comment or object to a delay or variance granted under this section does not constitute a waiver of or consent to the validity of the delay or variance granted.

(f) This section does not affect a civil suit filed against, a criminal prosecution of, or the validity of a penalty imposed on a subdivider for a violation of law, regardless of the date on which the violation occurred.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.228. AMENDING PLAT. The commissioners court may approve and issue an amending plat under this subchapter in the same manner, for the same purposes, and subject to the same related provisions as provided by Section 232.011.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

Sec. 232.229. APPLICABILITY OF INFRASTRUCTURE REQUIREMENTS TO LOTS UNDEVELOPED FOR 25 YEARS OR MORE. (a) A commissioners court by order may implement a process:

(1) applicable to a subdivision in which 50 percent or more of the lots are undeveloped or unoccupied on or after the 25th anniversary of the date the plat for the subdivision was recorded with the county; and

(2) through which the county, to the extent practicable, may apply to the subdivision more current street, road, drainage, and other infrastructure requirements.

(b) A regulation or standard adopted by a county under this section must be no less stringent than the minimum standards and other requirements under the model rules for safe and sanitary water supply and sewer services adopted under Section 16.343, Water Code, and any other minimum public safety standards that would otherwise be applicable to the subdivision.

(c) A regulation or standard adopted by a county under this section applies only to a lot that is owned by an individual, firm, corporation, or other legal entity that directly or indirectly offers lots for sale or lease as part of a common promotional plan in the ordinary course of business, and each regulation or standard must expressly state that limitation. For the purposes of this subsection, "common promotional plan" means a plan or scheme of operation undertaken by a person or a group acting in concert, either personally or through an agent, to offer for sale or lease more than two lots when the land is:

(1) contiguous or part of the same area of land; or

(2) known, designated, or advertised as a common unit or by a common name.

Added by Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 6, eff. September 1, 2025.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 232.901. CERTAIN VALUE-BASED FEES AND DISCLOSURE OF CERTAIN INFORMATION PROHIBITED. (a) This section applies only to an application, review, engineering, inspection, acceptance, administrative, or other fee imposed by a county related to the acceptance, review, or processing of engineering or construction plans or for the inspection of improvements for construction in a subdivision or a related improvement associated with or required in conjunction with that construction.

(b) A county may not consider the cost of constructing or improving the public infrastructure for a subdivision, lot, or related property development in determining the amount of a fee subject to this section. The county shall determine the fee by considering the county's actual cost to, as applicable, review and process the engineering or construction plan or to inspect the public infrastructure improvement.

(c) In determining the county's actual cost for reviewing and processing an engineering or construction plan or inspecting a public infrastructure improvement under Subsection (b), a county may consider:

(1) the fee that would be charged by a qualified, independent third-party entity for those services;

(2) the hourly rate for the estimated actual direct time of the county's employees performing those services; or

(3) the actual costs assessed to the county by a third-party entity that provides those services to the county.

(d) A county may not require the disclosure of information related to the value of or cost of constructing or improving a residential dwelling or the public infrastructure improvements for a subdivision, lot, or related property development as a condition of obtaining approval for subdivision construction or for the acceptance of those public infrastructure improvements except as required by the Federal Emergency Management Agency for participation in the National

Flood Insurance Program.

(e) A county that imposes a fee for reviewing or processing an engineering or construction plan or inspecting a public infrastructure improvement shall annually publish the fee and the hourly rate and estimated direct time incurred by county employees for a fee calculated under Subsection (c)(2). The county must publish the information:

(1) on the county's Internet website; or

(2) if the county does not maintain an Internet website, in a newspaper of general circulation in the county.

Added by Acts 2023, 88th Leg., R.S., Ch. 534 (H.B. 3492), Sec. 2, eff. September 1, 2023.

CHAPTER 233. COUNTY REGULATION OF HOUSING AND OTHER STRUCTURES

SUBCHAPTER A. DANGEROUS SUBSTANCES

Sec. 233.001. REQUIRING REPAIR, REMOVAL, OR DEMOLITION OF BUILDING OR OTHER STRUCTURE. (a) If the commissioners court of a county that borders the Gulf of Mexico and is adjacent to a county with a population of more than 3.3 million finds that a bulkhead or other method of shoreline protection, hereafter called "structure," in an unincorporated area of the county is likely to endanger persons or property, the commissioners may:

(1) order the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure or the part of the structure within a specified time; or

(2) repair, remove, or demolish the structure or the part of the structure at the expense of the county on behalf of the owner of the structure or the owner of the property on which the structure is located and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(b) The commissioners court shall provide by order for:

(1) the assessment of repair, removal, or demolition expenses incurred under Subsection (a)(2);

(2) a method of giving notice of the assessment; and

(3) a method of recovering the expenses.

(c) Promptly after the assessment, the county must file for record, in recordable form in the office of the county clerk in which

the property is located, a written notice of the imposition of a lien, if any, that is imposed on the property. The notice must contain a legal description of the property, the amount of the assessment, and the owner if known. The lien arises and attaches to the property at the time the notice of the assessment is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice to secure the assessment is inferior to any previously recorded bona fide mortgage lien attached to the property to which the county's lien attaches if the mortgage lien was filed for record in the office of the county clerk of the county in which the property is located before the date the notice is recorded and indexed in the office of the county clerk. The assessment lien is superior to all other previously recorded judgment liens.

(d) A person commits an offense if the person does not comply with an order issued under Subsection (a)(1). An offense under this section is a Class C misdemeanor.

(e) This section does not apply to a:

(1) residential building; or

(2) building or other structure that is owned or held in trust by the state or a political subdivision of this state; or

(3) building or structure used on or in connection with an agricultural operation.

Added by Acts 1995, 74th Leg., ch. 762, Sec. 1, eff. June 16, 1995. Renumbered from Sec. 239.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 14.002(4), eff. Sept. 1, 2001.
Amended by:

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

SUBCHAPTER B. BUILDING AND SETBACK LINES

Sec. 233.031. AUTHORITY LIMITED TO UNINCORPORATED AREAS; CONFLICT WITH MUNICIPAL AUTHORITY. (a) The authority under this subchapter to establish building and set-back lines applies only to areas outside the corporate limits of municipalities.

(b) If the lines conflict with lines adopted by a municipality, the municipal lines prevail if they are in the extraterritorial jurisdiction of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1, Sec. 54(d), eff. Aug, 28, 1989. Renumbered from Sec. 233.001 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.032. POWERS AND DUTIES OF COMMISSIONERS COURT. (a) If the commissioners court of a county determines that the general welfare will be promoted, the court may:

(1) establish by order building or set-back lines on the public roads, including major highways and roads, in the county; and

(2) prohibit the location of a new building within those building or set-back lines.

(b) A building or set-back line established under this subchapter may not extend:

(1) more than 25 feet from the edge of the right-of-way on all public roads other than major highways and roads; or

(2) more than 50 feet from the edge of the right-of-way of major highways and roads.

(c) The commissioners court may designate the public roads that are major highways and roads.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(d), eff. Aug. 28, 1989. Renumbered from Sec. 233.002 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.033. HEARING; ADOPTION OF LINES. (a) Before the establishment or change of building or set-back lines, the commissioners court must hold at least one public hearing on the establishment or change. The court shall publish notice of the time and place of the hearing in a newspaper of general circulation in the county before the 15th day before the date of the hearing. The court may adjourn the hearing from time to time.

(b) The commissioners court may establish or change a building or set-back line only by an order passed by at least a majority vote of the full membership of the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(d), eff. Aug. 28, 1989. Renumbered from Sec. 233.003 by Acts 2001, 77th Leg., ch. 1420, Sec.

12.002(3), eff. Sept. 1, 2001.

Sec. 233.034. NOTICE; LIMITATIONS PERIOD. (a) An owner of real property that fronts along a road that has a building or set-back line established under this subchapter is charged with notice of the building or set-back line order.

(b) The commissioners court shall show in a general manner each building or set-back line established under this subchapter on a map. The map shall be filed with the county clerk.

(c) If the county does not begin the construction of the improvement or widening of a road along which a building or set-back line has been established within four years after the date the building or set-back line is established, the building or set-back line becomes void, unless the county and the affected property owners agree to extend the time period for the improvements or widening.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 54(d), eff. Aug. 28, 1989. Renumbered from Sec. 233.004 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.035. BOARD OF BUILDING LINE ADJUSTMENT. (a) The commissioners court may appoint a board of building line adjustment consisting of five freeholders of the county. Members must be appointed for staggered terms of two years, with two members' terms expiring in one year and three members' terms expiring the next year. However, in making the initial appointments, the commissioners court shall designate two members for one-year terms and three members for two-year terms. The court may remove a member for cause on a written charge after a public hearing. The court shall fill a vacancy on the board for the unexpired term of the member whose term becomes vacant.

(b) The board shall elect its own chairman and shall adopt rules of procedure. The meetings of the board are open to the public. The board shall keep minutes of its proceedings that shall be filed in the board's office. The minutes of board meetings constitute a public record.

(c) Subject to appropriate conditions and safeguards, the board may modify or vary the regulations affecting building or set-back

lines in a case in which unnecessary hardship may result from a literal enforcement of those regulations, in order to do substantial justice and to observe the purpose of the regulations in protecting the public welfare and safety.

(d) The board shall hear and decide an appeal in a case in which, because of exceptional narrowness, shallowness, shape, topography, existing building development, or another exceptional and extraordinary situation or condition of a specific piece of property, the strict application of a building line established under this subchapter would result in peculiar and exceptional difficulties or hardships to the owner of the property. On appeal, the board may authorize a variance from the strict application of the regulation, under conditions imposed by the board, to relieve the hardship or difficulty if that relief can be granted without substantially impairing the intent and purpose of the building line or set-back line.

(e) With appropriate safeguards, the board shall authorize the construction of an improvement or a structure that may encroach on a building or set-back line. However, if the county proceeds with projected improvements of the affected road within the time provided by Section 233.034(c), the owner of the improvement or structure must remove it at no expense to the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 233.005 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.036. ENFORCEMENT. If a structure is erected, constructed, or reconstructed in violation of a building or set-back line established under this subchapter, the commissioners court, the district or county attorney, or an owner of real property in the county may institute an injunction, mandamus, abatement, or other appropriate action to prevent, abate, remove, or enjoin the unlawful erection, construction, or reconstruction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 233.006 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

Sec. 233.037. APPEAL. (a) An owner of property who is aggrieved by an action or order adopted by the board of building line adjustment may appeal to the commissioners court. The person must bring the appeal within 30 days after the date the action or order was adopted.

(b) A property owner in the county who is aggrieved by a final order of the board or of the commissioners court may appeal to the district court or to another court with proper jurisdiction. The appellant must bring the appeal within 30 days after the date on which the final order in question was adopted. The appellant must execute an appeal bond in an amount fixed by the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 233.007 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(3), eff. Sept. 1, 2001.

SUBCHAPTER C. FIRE CODE IN UNINCORPORATED AREA

Sec. 233.061. AUTHORITY TO ADOPT AND ENFORCE FIRE CODE. (a) The commissioners court of a county with a population of over 250,000 or a county adjacent to a county with a population of over 250,000 may adopt a fire code and rules necessary to administer and enforce the fire code.

(b) The commissioners court, or any municipality in the county, may contract with one another for the administration and enforcement of the fire code.

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 598, Sec. 1, eff. June 11, 1997. Renumbered from Sec. 235.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

Sec. 233.0615. DEFINITIONS; SUBSTANTIAL IMPROVEMENT; CONSTRUCTION. (a) In this subchapter:

(1) "Building" includes an establishment or multifamily dwelling.

(2) "Substantial improvement" means:

(A) the repair, restoration, reconstruction, improvement, or remodeling of a building for which the cost exceeds 50 percent of the building's value according to the certified tax

appraisal roll for the county for the year preceding the year in which the work was begun; or

(B) a change in occupancy classification involving a change in the purpose or level of activity in a building, including the renovation of a warehouse into a loft apartment.

(b) For purposes of this subchapter, substantial improvement begins on the date that the repair, restoration, reconstruction, improvement, or remodeling or the change in occupancy classification begins or on the date materials are first delivered for that purpose.

(c) For purposes of this subchapter, construction begins on the date that ground is broken for a building, or if no ground is broken, on the date that:

(1) the first materials are added to the original property;

(2) foundation pilings are installed on the original property; or

(3) a manufactured building or relocated structure is placed on a foundation on the original property.

Added by Acts 2005, 79th Leg., Ch. 331 (S.B. 736), Sec. 1, eff. June 17, 2005.

Sec. 233.062. APPLICATION AND CONTENT OF FIRE CODE. (a) The fire code applies only to the following buildings constructed in an unincorporated area of the county:

(1) a commercial establishment;

(2) a public building; and

(3) a multifamily residential dwelling consisting of four or more units.

(b) The fire code does not apply to an industrial facility having a fire brigade that conforms to requirements of the Occupational Health and Safety Administration.

(c) The fire code must:

(1) conform to:

(A) the International Fire Code, as published by the International Code Council, as the code existed on May 1, 2005; or

(B) the Uniform Fire Code, as published by the National Fire Protection Association, as the code existed on May 1, 2005; or

(2) establish protective measures that exceed the standards of the codes described by Subdivision (1).

(d) The commissioners court may adopt later editions of a fire code listed in Subsection (c).

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 331 (S.B. 736), Sec. 2, eff. June 17, 2005.

Sec. 233.063. BUILDING PERMIT; APPLICATION. (a) A person may not construct or substantially improve a building described by Section 233.062(a) in an unincorporated area of the county unless the person obtains a building permit issued in accordance with this subchapter.

(b) A person may apply for a building permit by providing to the commissioners court:

(1) a plan of the proposed building containing information required by the commissioners court; and

(2) an application fee in an amount set by the commissioners court.

(c) Within 30 days after the date the commissioners court receives an application and fee in accordance with Subsection (b), the commissioners court shall:

(1) issue the permit if the plan complies with the fire code; or

(2) deny the permit if the plan does not comply with the fire code.

(d) If the commissioners court receives an application and fee in accordance with Subsection (b) and the commissioners court does not issue the permit or deny the application within 30 days after receiving the application and fee, the construction or substantial improvement of the building that is the subject of the application is approved for the purposes of this subchapter.

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.003 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(4), eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 331 (S.B. 736), Sec. 3, eff. June 17,

2005.

Sec. 233.064. INSPECTIONS. (a) The county shall inspect a building subject to this subchapter to determine whether the building complies with the fire code.

(b) The commissioners court may provide that a county employee or an employee of another governmental entity under intergovernmental contract may perform the inspection.

(c) A building inspector may enter and perform the inspection at a reasonable time at any stage of the building's construction or substantial improvement and after completion of the building.

(d) On or before the date that construction or substantial improvement of a building subject to this subchapter is completed, the owner of the building shall request in writing that the county inspect the building for compliance with the fire code.

(e) Except as provided by Subsection (e-1), the county shall begin the inspection of the building within five business days after the date of the receipt of the written inspection request. If an inspection is properly requested and the county does not begin the inspection within the time permitted by this subsection, the building that is the subject of the request is considered approved for the purposes of this subchapter.

(e-1) A county with a population of more than 3.3 million shall begin the inspection of the building within 10 business days after the date of receipt of the written inspection request, except the county shall begin the inspection of an indoor retail fireworks site, as defined by Section 2154.001, Occupations Code, within five business days after the date of receipt of the written inspection request.

(f) The county shall issue a final certificate of compliance to the owner of a building inspected under this section if the inspector determines, after an inspection of the completed building, that the building complies with the fire code. For a building or complex of buildings involving phased completion or build-out, the county may issue a partial certificate of compliance for any portion of the building or complex the inspector determines is in substantial compliance with the fire code.

(g) If the inspector determines, after an inspection of the completed building, that the building does not comply with the fire

code, the county may:

(1) deny the certificate of compliance; or

(2) issue a conditional or partial certificate of compliance and allow the building to be occupied.

(h) A county that issues a conditional certificate of compliance under Subsection (g) shall notify the owner of the building of the violations of the fire code and establish a reasonable time to remedy the violations. A county may revoke a conditional certificate of compliance if the owner does not remedy the violations within the time specified on the conditional certificate of compliance.

(i) A building may not be occupied until a county issues a final, conditional, or partial certificate of compliance for the building.

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.004 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(4), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 331 (S.B. 736), Sec. 4, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 797 (H.B. 2266), Sec. 1, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 984 (H.B. 2610), Sec. 1, eff. September 1, 2021.

Sec. 233.065. FEES. (a) The commissioners court may develop a fee schedule based on building type and may set and charge fees for an inspection and the issuance of a building permit and final certificate of compliance under this subchapter.

(b) The fees must be set in amounts necessary to cover the cost of administering and enforcing this subchapter.

(c) The county shall deposit fees received under this subchapter in a special fund in the county treasury, and money in that fund may be used only for the administration and enforcement of the fire code.

(d) The fee for a fire code inspection under this subchapter must be reasonable and reflect the approximate cost of the inspection personnel, materials, and administrative overhead.

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.005 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(4), eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 331 (S.B. 736), Sec. 5, eff. June 17, 2005.

Sec. 233.066. INJUNCTION. The appropriate attorney representing the county in the district court may seek injunctive relief to prevent the violation or threatened violation of the fire code.

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

Sec. 233.067. CIVIL PENALTY. (a) The appropriate attorney representing the county in civil cases may file a civil action in a court of competent jurisdiction to recover from a person who violates the fire code a civil penalty in an amount not to exceed $200 for each day on which the violation exists. In determining the amount of the penalty, the court shall consider the seriousness of the violation.

(b) The county shall deposit amounts collected under this section in the fund and for the purposes described by Section 233.065(c).

Added by Acts 1989, 71st Leg., ch. 296, Sec. 1, eff. Jan. 1, 1991. Renumbered from Sec. 235.007 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(4), eff. Sept. 1, 2001.

SUBCHAPTER D. ALARM SYSTEMS

Sec. 233.091. DEFINITIONS. In this subchapter:

(1) "Alarm site" means the specific property or area of the premises on or within which an alarm system is installed or placed.

(2) "Alarm system" means an alarm signal device, burglar alarm, heat or motion sensor, or other electrical, mechanical, or electronic device used:

(A) to prevent or detect burglary, theft, pilferage, fire, or other loss of property;

(B) to prevent or detect intrusion; or

(C) primarily to detect and summon aid for other emergencies.

(3) "False alarm" means an alarm signal received by a law enforcement official that is later determined not to involve a criminal offense, attempted criminal offense, fire, or other emergency.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 237.001 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.092. AUTHORITY TO REGULATE; ADOPTION OF RULES. (a) The commissioners court of a county by order may authorize the sheriff of a county to:

(1) propose rules to implement this subchapter;

(2) regulate the incidence of and response to false alarms in accordance with the rules proposed by the sheriff and adopted or modified by the commissioners court under this subchapter;

(3) establish procedures for application for and renewal and revocation of an alarm system permit;

(4) establish procedures that include notice to the permit holder and an opportunity for a hearing for permit revocation or suspension if the permit holder violates this subchapter or an order of the commissioners court or a rule adopted under this subchapter;

(5) establish fees in accordance with this subchapter for the issuance of the permits;

(6) require that any permit issued under this subchapter be kept at the alarm site and produced for inspection on request of the sheriff or the sheriff's representative;

(7) require that a permit must be issued and unrevoked before a sheriff or other law enforcement official may respond; and

(8) establish a number of free false alarms for each category of alarm system and impose a service response fee for any alarm in excess of the number of free responses within the preceding 12-month period.

(b) Repealed by Acts 2005, 79th Leg., Ch. 1296, Sec. 5, eff.

June 18, 2005.

(c) A penalty or fee imposed for a false alarm must be established by rule based on the type and level of emergency response provided. The fee for more than five false alarms shall not exceed $75 per false alarm above the number of free responses. If there are more than nine false alarms in a one-year period, the alarm system permit may be revoked.

(d) Notwithstanding the other provisions of this section, the owner or lessee of premises on which an alarm system is installed may be charged the full costs incurred by the county when the owner or lessee or the agent or employee of the owner or lessee intentionally or knowingly activates the alarm system for any reason other than an emergency or threat of an emergency of the kind for which the alarm system was designed to give notice.

(e) The sheriff or the sheriff's representative shall provide a copy of the rules to a person and assess a fee for the copy in accordance with Chapter 552, Government Code.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), eff. Sept. 1, 1995. Renumbered from Sec. 237.002 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1296 (H.B. 2626), Sec. 5, eff. June 18, 2005.

Sec. 233.093. PERMIT REQUIRED; EXCEPTIONS. (a) In a county in which the sheriff regulates alarm systems under this subchapter, a person may not use an alarm system without a permit issued in accordance with this subchapter.

(b) This subchapter does not apply to:

(1) emergency response systems managed by health care facilities licensed by the Texas Department of Health; or

(2) alarm systems installed on:

(A) a motor vehicle;

(B) premises occupied by the United States, this state, or the county; or

(C) premises located in an incorporated area within the county.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 237.003 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.094. PERMIT FEES. (a) The sheriff of a county who regulates alarm systems under this subchapter may authorize the county auditor to assess and collect fees for the issuance or renewal of a permit under this subchapter in reasonable amounts set by the commissioners court.

(b) All fees received under this subchapter shall be remitted to the county treasurer to be deposited to the credit of the general fund of the county.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 237.004 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.095. MUNICIPAL AUTHORITY UNAFFECTED. This subchapter does not affect the authority of a municipality in the county to enact ordinances regulating alarm systems.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 237.005 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.096. CRIMINAL PENALTY. (a) A person who violates this subchapter, an order of the commissioners court, or a rule adopted under this subchapter commits an offense.

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 237.006 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.097. COUNTY LIABILITY. The county, the commissioners court, the sheriff, and the sheriff's employees or agents are not liable for an action arising out of the regulation of or failure to

regulate alarm systems.

Added by Acts 1991, 72nd Leg., ch. 147, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 237.007 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(5), eff. Sept. 1, 2001.

Sec. 233.098. ENFORCED COLLECTION. The appropriate attorney representing the county may file a civil action in a court of competent jurisdiction to recover a penalty or fee imposed by a county under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1296 (H.B. 2626), Sec. 3, eff. June 18, 2005.

SUBCHAPTER F. RESIDENTIAL BUILDING CODE STANDARDS APPLICABLE TO UNINCORPORATED AREAS OF CERTAIN COUNTIES

Sec. 233.151. DEFINITIONS. (a) In this subchapter, "new residential construction" includes:

(1) residential construction of a single-family house or duplex on a vacant lot; and

(2) construction of an addition to an existing single-family house or duplex, if the addition will increase the square footage or value of the existing residential building by more than 50 percent.

(b) The term does not include a structure that is constructed in accordance with Chapter 1201, Occupations Code, or a modular home constructed in accordance with Chapter 1202, Occupations Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.

Sec. 233.152. APPLICABILITY. This subchapter applies only to a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

(1) is located within 50 miles of an international border; or

(2) has a population of more than 100.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.

Sec. 233.153. BUILDING CODE STANDARDS APPLICABLE. (a) New residential construction of a single-family house or duplex in the unincorporated area of a county to which this subchapter applies shall conform to the version of the International Residential Code published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county.

(b) Standards required under this subchapter apply only to new residential construction that begins after September 1, 2009.

(c) If a municipality located within a county to which this subchapter applies has adopted a building code in the municipality's extraterritorial jurisdiction, the building code adopted by the municipality controls and building code standards under this subchapter have no effect in the municipality's extraterritorial jurisdiction.

(d) This subchapter may not be construed to:

(1) require prior approval by the county before the beginning of new residential construction;

(2) authorize the commissioners court of a county to adopt or enforce zoning regulations; or

(3) affect the application of the provisions of Subchapter B or G, Chapter 232, to land development.

(e) In the event of a conflict between this subchapter and Subchapter B or G, Chapter 232, the provisions of Subchapter B or G, Chapter 232, control.

(f) A county may not charge a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 526 (H.B. 3680), Sec. 7, eff. September 1, 2025.

Sec. 233.154. INSPECTION AND NOTICE REQUIREMENTS. (a) A person who builds new residential construction described by Section 233.153 shall have the construction inspected to ensure building code compliance in accordance with this section as follows:

(1) for new residential construction on a vacant lot, a minimum of three inspections must be performed during the construction project to ensure code compliance, as applicable, at the following stages of construction:

(A) the foundation stage, before the placement of concrete;

(B) the framing and mechanical systems stage, before covering with drywall or other interior wall covering; and

(C) on completion of construction of the residence;

(2) for new residential construction of an addition to an existing residence as described by Section 233.151(a)(2), the inspections under Subdivision (1) must be performed as necessary based on the scope of work of the construction project; and

(3) for new residential construction on a vacant lot and for construction of an addition to an existing residence, the builder:

(A) is responsible for contracting to perform the inspections required by this subsection with:

(i) a licensed engineer;

(ii) a registered architect;

(iii) a professional inspector licensed by the Texas Real Estate Commission;

(iv) a plumbing inspector employed by a municipality and licensed by the Texas State Board of Plumbing Examiners;

(v) a building inspector employed by a political subdivision; or

(vi) an individual certified as a residential combination inspector by the International Code Council; and

(B) may use the same inspector for all the required inspections or a different inspector for each required inspection.

(b) If required by a county to which this subchapter applies, before commencing new residential construction, the builder shall provide notice to the county on a form prescribed by the county of:

(1) the location of the new residential construction;

(2) the approximate date by which the new residential

construction will be commenced; and

(3) the version of the International Residential Code that will be used to construct the new residential construction before commencing construction.

(c) If required by the county, not later than the 10th day after the date of the final inspection under this section, the builder shall submit notice of the inspection stating whether or not the inspection showed compliance with the building code standards applicable to that phase of construction in a form required by the county to:

(1) the county employee, department, or agency designated by the commissioners court of the county to receive the information; and

(2) the person for whom the new residential construction is being built, if different from the builder.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.

Sec. 233.155. ENFORCEMENT OF STANDARDS. (a) If proper notice is not submitted in accordance with Sections 233.154(b) and (c), the county may take any or all of the following actions:

(1) refer the inspector to the appropriate regulatory authority for discipline;

(2) in a suit brought by the appropriate attorney representing the county in the district court, obtain appropriate injunctive relief to prevent a violation or threatened violation of a standard or notice required under this subchapter from continuing or occurring; or

(3) refer the builder for prosecution under Section 233.157.

(b) If the notice the builder provided to the county under Section 233.154(c) does not indicate that the inspection showed compliance with the applicable building code standards, the county may take either or both of the actions under Subsections (a)(2) and (3).

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 774 (H.B. 2040), Sec. 1, eff. September 1, 2017.

Sec. 233.156. EXISTING AUTHORITY UNAFFECTED. The authority granted by this subchapter does not affect the authority of a commissioners court to adopt an order under other law.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.

Sec. 233.157. PENALTY. (a) A builder commits an offense if:

(1) the builder fails to provide proper notice in accordance with Sections 233.154(b) and (c); or

(2) as provided by Section 233.155(b), the builder does not provide notice under Section 233.154(c) that indicates that the inspection showed compliance with the applicable building code standards.

(b) An offense under this section is a Class C misdemeanor.

(c) An individual who fails to provide proper notice in accordance with Sections 233.154(b) and (c) is not subject to a penalty under this subsection if:

(1) the new residential construction is built by the individual or the individual acts as the individual's own contractor; and

(2) the individual intends to use the residence as the individual's primary residence.

(d) It is an affirmative defense to prosecution for failure to submit proper notice under Section 233.154(c) if the builder's failure to submit a notice is the result of the failure of the person who performed the inspection to provide appropriate documentation to the builder for submission to the county.

Added by Acts 2009, 81st Leg., R.S., Ch. 1318 (H.B. 2833), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 774 (H.B. 2040), Sec. 2, eff. September 1, 2017.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 233.901. TIME FOR ISSUANCE OF COUNTY BUILDING PERMIT. (a) This section applies only to a permit required by a county with a population of 3.3 million or more to construct or improve a building or other structure in the county, but does not apply to a permit for an on-site sewage disposal system.

(b) Not later than the 45th day after the date an application for a permit is submitted, the county must:

(1) grant or deny the permit;

(2) provide written notice to the applicant stating the reasons why the county has been unable to act on the permit application; or

(3) reach a written agreement with the applicant providing for a deadline for granting or denying the permit.

(c) For a permit application for which notice is provided under Subsection (b)(2), the county must grant or deny the permit not later than the 30th day after the date the notice is received.

(d) If a county fails to act on a permit application in the time required by Subsection (c) or by an agreement under Subsection (b)(3), the county:

(1) may not collect any permit fees associated with the application; and

(2) shall refund to the applicant any permit fees associated with the application that have been collected.

Added by Acts 2005, 79th Leg., Ch. 918 (H.B. 266), Sec. 1, eff. September 1, 2005.

CHAPTER 234. COUNTY REGULATION OF BUSINESSES AND OCCUPATIONS

SUBCHAPTER A. CERTAIN OUTDOOR BUSINESSES

Sec. 234.001. DEFINITIONS. In this subchapter:

(1) "Automotive wrecking and salvage yard" means a business, other than a business classified as a salvage pool operator under Chapter 2302, Occupations Code, that stores three or more wrecked vehicles outdoors for the purpose of:

(A) selling the vehicles whole; or

(B) dismantling or otherwise wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.

(2) "Demolition business" means a business that demolishes structures, including houses and other buildings, in order to salvage building materials and that stores those materials before disposing of them.

(3) "Flea market" means an outdoor market for selling secondhand articles or antiques.

(4) "Junkyard" means a business that stores, buys, or sells materials that have been discarded or sold at a nominal price by a previous owner and that keeps all or part of the materials outdoors until disposing of them.

(5) "Outdoor resale business" means a business that sells used merchandise, other than automobiles, logging equipment, or other agricultural equipment, and stores or displays the merchandise outdoors.

(6) "Recycling business" means a business that is primarily engaged in:

(A) converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value;

(B) using raw material products of that kind in the production of new products; or

(C) obtaining or storing ferrous or nonferrous metals or other materials for a purpose described by Paragraph (A) or (B).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 8.01(a), eff. Aug. 30, 1993. Amended by Acts 1999, 76th Leg., ch. 992, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(6), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.789, eff. Sept. 1, 2003.

Sec. 234.002. AUTHORITY TO REGULATE; ADOPTION OF RULE. (a) The commissioners court of a county by order may establish visual aesthetic standards for automotive wrecking and salvage yards, junkyards, recycling businesses, flea markets, demolition businesses, and outdoor resale businesses in the unincorporated area of the county.

(b) The commissioners court may not include in an order adopted under this section a screening requirement for an automotive wrecking and salvage yard or a junkyard that is less restrictive than the

screening requirement under Chapter 396, Transportation Code.

(c) An order adopted under this section must provide a reasonable period of time not to exceed 12 months for a business operating on the effective date of the order to comply with the visual aesthetic standards.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 8.01, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.222, eff. Sept. 1, 1997. Renumbered from Sec. 238.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(6), eff. Sept. 1, 2001.

Sec. 234.003. EXCEPTIONS. (a) A commissioners court may not regulate under this subchapter farm machinery owned or operated by the person on whose property the machinery is located and kept on that property for purposes other than sale.

(b) A business subject to a screening requirement under Subchapter E of Chapter 391, Chapter 396, or Chapter 397, Transportation Code, that was in compliance with that screening requirement on August 26, 1991, is exempt from a screening requirement adopted under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 8.01, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.223, eff. Sept. 1, 1997. Renumbered from Sec. 238.003 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(6), eff. Sept. 1, 2001.

Sec. 234.004. CIVIL PENALTY. (a) The appropriate attorney representing the county in civil cases may file a civil action to recover a civil penalty from a business that violates a visual aesthetic standard established under this subchapter. The penalty may not exceed $50 each day for the first 10 days of the violation, $100 each day for the next 10 days, $250 each day for the next 10 days, and $1,000 for each day thereafter. In determining the amount of the penalty, the court shall consider the seriousness of the violation.

(b) A penalty recovered under this section shall be deposited in the general fund of the county.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 8.01, eff. Aug. 30,

1993. Renumbered from Sec. 238.004 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(6), eff. Sept. 1, 2001.

SUBCHAPTER C. COUNTY INSPECTION OF DAY-CARE CENTERS AND GROUP DAY-CARE HOMES LOCATED IN MUNICIPALITIES

Sec. 234.051. DEFINITIONS. In this subchapter:

(1) "Day-care center" has the meaning assigned by Section 42.002, Human Resources Code.

(2) "Group day-care home" has the meaning assigned by Section 42.002, Human Resources Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 388 (S.B. 436), Sec. 1, eff. June 17, 2011.

Sec. 234.052. APPLICABILITY. This subchapter applies only to a county with a population of 700,000 or more.

Added by Acts 2011, 82nd Leg., R.S., Ch. 388 (S.B. 436), Sec. 1, eff. June 17, 2011.

Sec. 234.053. FACILITY INSPECTION REQUIRED BY MUNICIPALITY. A county health officer or official designated by the commissioners court may contract with a municipality for the county to conduct an inspection required by the municipality of a day-care center or group day-care home located in the municipality.

Added by Acts 2011, 82nd Leg., R.S., Ch. 388 (S.B. 436), Sec. 1, eff. June 17, 2011.

SUBCHAPTER D. MASSAGE PARLORS

Sec. 234.101. DEFINITIONS. In this subchapter:

(1) "Massage parlor" means a business establishment that purports to provide massage services and that allows:

(A) a nude person to provide massage services to a customer;

(B) a person to engage in sexual contact for compensation; or

(C) a person to provide massage services in clothing intended to arouse or gratify the sexual desire of any person.

(2) "Nude" and "sexual contact" have the meanings assigned by Section 455.202, Occupations Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 932 (H.B. 3094), Sec. 1, eff. June 19, 2009.

Sec. 234.102. AUTHORITY TO REGULATE. To promote public health, safety, and welfare, the commissioners court of a county by order may prohibit or otherwise regulate massage parlors located in the unincorporated area of the county.

Added by Acts 2009, 81st Leg., R.S., Ch. 932 (H.B. 3094), Sec. 1, eff. June 19, 2009.

Sec. 234.103. INJUNCTION. If a massage parlor has previously violated a prohibition or other regulation adopted under this subchapter, a district or county attorney may bring suit to enjoin the operation of a massage parlor in violation or threatened violation of a prohibition or other regulation adopted under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 932 (H.B. 3094), Sec. 1, eff. June 19, 2009.

Sec. 234.104. CIVIL PENALTY. (a) A person who violates a prohibition or regulation adopted by the county under this subchapter is liable to the county for a civil penalty of not more than $1,000 for each violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty.

(b) A county may bring suit in a district court to recover a civil penalty authorized by Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 932 (H.B. 3094), Sec. 1, eff. June 19, 2009.

Sec. 234.105. CRIMINAL PENALTY. (a) A person commits an offense if the person intentionally or knowingly operates a massage parlor in violation of a prohibition or regulation adopted under this subchapter by the commissioners court.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 2009, 81st Leg., R.S., Ch. 932 (H.B. 3094), Sec. 1, eff. June 19, 2009.

Sec. 234.106. CUMULATIVE EFFECT. Authority under this subchapter is cumulative of other authority that a county has to regulate massage parlors and does not limit that other authority.

Added by Acts 2009, 81st Leg., R.S., Ch. 932 (H.B. 3094), Sec. 1, eff. June 19, 2009.

Sec. 234.107. EFFECT ON OTHER LAWS. (a) This subchapter does not legalize anything prohibited under the Penal Code or other state law.

(b) A person who is subject to prosecution under this section and any other law may be prosecuted under either or both laws.

Added by Acts 2009, 81st Leg., R.S., Ch. 932 (H.B. 3094), Sec. 1, eff. June 19, 2009.

SUBCHAPTER E. GAME ROOMS

Sec. 234.131. DEFINITIONS. In this subchapter:

(1) "Amusement redemption machine" means any electronic, electromechanical, or mechanical contrivance designed, made, and adopted for bona fide amusement purposes that rewards the player exclusively with noncash merchandise, prizes, toys, or novelties, or a representation of value redeemable for those items, with a wholesale value available from a single play of the game or device in an amount not more than 10 times the amount charged to play the game or device once or $5, whichever amount is less.

(2) "Game room" means a for-profit business located in a building or place that contains six or more:

(A) amusement redemption machines; or

(B) electronic, electromechanical, or mechanical contrivances that, for consideration, afford a player the opportunity to obtain a prize or thing of value, the award of which is determined solely or partially by chance, regardless of whether the contrivance is designed, made, or adopted solely for bona fide amusement purposes.

(3) "Game room owner" means a person who:

(A) has an ownership interest in, or receives the profits from, a game room or an amusement redemption machine located in a game room;

(B) is a partner, director, or officer of a business, including a company or corporation, that has an ownership interest in a game room or in an amusement redemption machine located in a game room;

(C) is a shareholder that holds more than 10 percent of the outstanding shares of a business, including a company or corporation, that has an ownership interest in a game room or in an amusement redemption machine located in a game room;

(D) has been issued by the county clerk an assumed name certificate for a business that owns a game room or an amusement redemption machine located in a game room;

(E) signs a lease for a game room;

(F) opens an account for utilities for a game room;

(G) receives a certificate of occupancy or certificate of compliance for a game room;

(H) pays for advertising for a game room; or

(I) signs an alarm permit for a game room.

(4) "Operator" means an individual who:

(A) operates a cash register, cash drawer, or other depository on the premises of a game room or of a business where the money earned or the records of credit card transactions or other credit transactions generated in any manner by the operation of a game room or activities conducted in a game room are kept;

(B) displays, delivers, or provides to a customer of a game room merchandise, goods, entertainment, or other services offered on the premises of a game room;

(C) takes orders from a customer of a game room for merchandise, goods, entertainment, or other services offered on the premises of a game room;

(D) acts as a door attendant to regulate entry of

customers or other persons into a game room; or

(E) supervises or manages other persons at a game room in the performance of an activity listed in this subdivision.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1284 (H.B. 2123), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1170 (S.B. 866), Sec. 1, eff. September 1, 2015.

Sec. 234.133. AUTHORITY TO REGULATE. To promote the public health, safety, and welfare, the commissioners court of a county may regulate the operation of game rooms and may:

(1) restrict the location of game rooms to specified areas of the county, including the unincorporated area of the county;

(2) prohibit a game room location within a certain distance, prescribed by the commissioners court, of a school, regular place of religious worship, or residential neighborhood; or

(3) restrict the number of game rooms that may operate in a specified area of the county.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1284 (H.B. 2123), Sec. 1, eff. June 14, 2013.

Sec. 234.134. LICENSES OR PERMITS. (a) A county may require that an owner or operator of a game room obtain a license or permit or renew a license or permit on a periodic basis to own or operate a game room in the county. An application for a license or permit must be made in accordance with Section 234.1341 and with regulations adopted by the county.

(a-1) A county may require that a person employed by a game room, other than an owner or operator, obtain a license or permit or renew a license or permit on a periodic basis to be employed by a game room in the county. An application for a license or permit must be made in accordance with Section 234.1342 and with regulations adopted by the county.

(b) Regulations adopted under this section may provide for the denial, suspension, or revocation of a license or permit.

(c) A district court has jurisdiction of a suit that arises

from the denial, suspension, or revocation of a license or other permit by a county.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1284 (H.B. 2123), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 991 (H.B. 4446), Sec. 1, eff. September 1, 2023.

Sec. 234.1341. APPLICATION FOR OWNER OR OPERATOR LICENSE OR PERMIT. (a) A county requiring a person to obtain a license or permit to own or operate a game room in the county shall require the person to submit a completed application as provided by this section for issuance or renewal of the license or permit and an application fee of $1,000 as required by the county.

(b) An application form developed by the county under this section must require the applicant to provide the following information:

(1) the name of the business, including a copy of the assumed name certificate;

(2) the legal name, social security number, date of birth, and other relevant information concerning each person who owns at least five percent of the business or serves in a management role for the business;

(3) the name and contact information of the owner of the property where the game room is located;

(4) information concerning any other game room previously or currently operated by the applicant;

(5) the applicant's fingerprints;

(6) a copy of the applicant's valid state-issued driver's license or personal identification card and social security card; and

(7) the applicant's consent for a criminal history record information check of the applicant.

Added by Acts 2023, 88th Leg., R.S., Ch. 991 (H.B. 4446), Sec. 2, eff. September 1, 2023.

Sec. 234.1342. APPLICATION FOR EMPLOYEE LICENSE OR PERMIT. (a) A county requiring a person to obtain a license or permit to be

employed by a game room in the county shall require the person to submit a completed application as provided by this section for issuance or renewal of the license or permit and an application fee of $50 as required by the county.

(b) An application form developed by the county under this section must require the applicant to provide the following information:

(1) the person's legal name, social security number, date of birth, and other relevant information;

(2) the person's criminal history;

(3) the applicant's fingerprints;

(4) a copy of the applicant's valid state-issued driver's license or personal identification card and social security card;

(5) a recent photograph of the applicant's face and a recent photograph of the applicant's full body; and

(6) the applicant's consent for a criminal history record information check of the applicant.

(c) A county may not issue or renew a license or permit for an applicant who has been previously convicted of a Class B misdemeanor or higher criminal offense.

(d) A county shall send a copy of fingerprints obtained under this section to the Department of Public Safety to allow the department to create a permanent record of the fingerprints in the criminal justice information system.

Added by Acts 2023, 88th Leg., R.S., Ch. 991 (H.B. 4446), Sec. 2, eff. September 1, 2023.

Sec. 234.135. FEES. A county may impose a fee not to exceed $1,000 on an applicant for a license or permit or for the renewal of the license or permit required under this subchapter. The fee must be based on the cost of processing the application and investigating the applicant.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1284 (H.B. 2123), Sec. 1, eff. June 14, 2013.

Sec. 234.136. INSPECTION. (a) A peace officer or county employee may inspect a business in the county to determine the number

of amusement redemption machines or machines described by Section 234.131(2)(B) subject to regulation under this subchapter that are located on the premises of the business.

(b) A peace officer or county employee may inspect any business in which six or more amusement redemption machines or machines described by Section 234.131(2)(B) are located to determine whether the business is in compliance with this subchapter or regulations adopted under this subchapter.

(c) A person violates this subchapter if the person fails to allow a peace officer or county employee to conduct an inspection under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1284 (H.B. 2123), Sec. 1, eff. June 14, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1170 (S.B. 866), Sec. 3, eff. September 1, 2015.

Sec. 234.137. INJUNCTION; CIVIL PENALTY. (a) A county may sue in district court for an injunction to prohibit the violation or threatened violation of this subchapter or a regulation adopted under Section 234.133.

(b) A person who violates this subchapter or a regulation adopted under Section 234.133 is liable to the county for a civil penalty of not more than $10,000 for each violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty under this subsection. A county may bring suit in district court to recover a civil penalty authorized by this subsection.

(c) The county is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney's fees, court costs, and investigatory costs.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1284 (H.B. 2123), Sec. 1, eff. June 14, 2013.

Sec. 234.138. CRIMINAL PENALTY. (a) A person commits an offense if the person intentionally or knowingly operates a game room

in violation of a regulation adopted under Section 234.133.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1284 (H.B. 2123), Sec. 1, eff. June 14, 2013.

Sec. 234.139. CUMULATIVE EFFECT. Authority under this subchapter is cumulative of other authority that a county has to regulate game rooms and does not limit that authority.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1284 (H.B. 2123), Sec. 1, eff. June 14, 2013.

Sec. 234.140. EFFECT ON OTHER LAWS. (a) This subchapter does not legalize any activity prohibited under the Penal Code or other state law.

(b) A person's compliance with this subchapter, including operating a game room under a license or permit issued under this chapter, is not a defense to prosecution for an offense under Chapter 47, Penal Code.

(c) A person who is subject to prosecution under Section 234.138 and any other law may be prosecuted under either or both laws.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1284 (H.B. 2123), Sec. 1, eff. June 14, 2013.

CHAPTER 235. COUNTY REGULATION OF MATTERS RELATING TO EXPLOSIVES AND WEAPONS

SUBCHAPTER A. EXPLOSIVES

Sec. 235.001. APPLICABILITY. (a) This subchapter applies only to a county with a population of one million or more.

(b) This subchapter does not apply to fire, police, or military personnel acting in the course of their professional duties.

(c) This subchapter does not affect the authority of a municipality in the county to enact ordinances under other law concerning explosives.

Added by Acts 1989, 71st Leg., ch. 1264, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 235.001 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(20), eff. Sept. 6, 1990. Amended by Acts 1997, 75th Leg., ch. 929, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 236.001 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(8), eff. Sept. 1, 2001.

Sec. 235.002. DEFINITIONS. In this subchapter:

(1) "Blaster" means a person who:

(A) detonates or otherwise effects the explosion of an explosive and is employed by a user; or

(B) personally supervises another engaged in that activity.

(2) "Blasting agent" means a material or mixture consisting of fuel and oxidizer, intended for blasting that, as mixed for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined.

(3) "Dealer" means a person who:

(A) buys or sells explosives, black powder, or smokeless powder; or

(B) is licensed as a dealer of destructive devices, as that term is defined by the National Firearms Act (26 U.S.C. Sec. 5801 et seq.).

(4) "Explosive" means a chemical compound mixture or a device, the primary purpose of which is to function by explosion and includes dynamite, high explosives, more than 50 pounds of black powder or smokeless powder, or any amount of pellet powder, initiating explosives, detonators, safety fuses, blasting agents, squibs, detonating cord, igniter cord, and igniters.

(5) "Magazine" means any approved storage facility, classified under 18 U.S.C. Sec. 841 et seq., certified as adequate by the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of Treasury, and passed with a current inspection certificate.

(6) "Manufacturer-distributor" means a person who manufactures, compounds, combines, produces, or distributes an explosive.

(7) "Transfer" means to transfer an explosive actually or constructively from one person to another.

(8) "User" means a person who, as the final consumer, uses an explosive.

Added by Acts 1989, 71st Leg., ch. 1264, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 235.002 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(20), eff. Sept. 6, 1990. Renumbered from Sec. 236.002 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(8), eff. Sept. 1, 2001.

Sec. 235.003. AUTHORITY TO REGULATE; ADOPTION OF RULES. (a) Except as provided by Subsection (b), the commissioners court of the county by order may authorize the county fire marshal of a county to:

(1) propose rules to implement this subchapter; and

(2) in accordance with the rules proposed by the county fire marshal and adopted by the commissioners court under this subchapter:

(A) regulate the production, distribution, transport, transfer, use, and possession of an explosive in the county; and

(B) enforce standards concerning the manufacture, transportation, transfer, use, handling, and storage of explosives as necessary for the protection of the public health, welfare, or safety and of persons possessing, handling, and using explosives.

(b) The commissioners court may not adopt a rule under this chapter that:

(1) authorizes the county fire marshal to regulate the transportation of explosives if the point of origin and the destination are outside the county; or

(2) regulates a product or activity licensed or regulated under Chapter 2154, Occupations Code, or a rule adopted under that chapter.

(c) Rules proposed by the county fire marshal, if adopted by the commissioners court, must include:

(1) the requirement that a person obtain a permit from the county fire marshal in accordance with this subchapter before the person may:

(A) produce, distribute, transport, use, or possess an explosive; or

(B) maintain a permanent storage magazine;

(2) the establishment of procedures for permit application

and renewal;

(3) the establishment of procedures that include notice to the permit holder and an opportunity for a hearing, for permit revocation or suspension if the permit holder violates this subchapter or a rule adopted under this subchapter;

(4) the establishment of fees in accordance with this subchapter for the issuance of the permits;

(5) the requirement that persons who produce or transfer explosives keep records of the explosives produced or transferred; and

(6) the requirement that a label be affixed to each unit of explosive in the county stating the type, class, and serial or control number of the explosive.

(d) The rules may not conflict with generally accepted standards of safety concerning explosives and must conform to published standards of the Institute of Makers of Explosives.

(e) The county fire marshal shall provide a copy of the rules to a person on request and may assess a reasonable fee for the copy.

Added by Acts 1989, 71st Leg., ch. 1264, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 235.003 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(20), eff. Sept. 6, 1990. Amended by Acts 1997, 75th Leg., ch. 929, Sec. 2, eff. Sept. 1, 1997. Renumbered from Sec. 236.003 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(8), 14.824, eff. Sept. 1, 2001.

Sec. 235.004. PERMIT REQUIRED; EXCEPTION. (a) In a county in which the county fire marshal regulates explosives under this subchapter, a person, including a common, contract, or private carrier, may not produce, distribute, transport, transfer, use, or possess an explosive without a permit issued in accordance with this subchapter.

(b) A person who is employed by and acts under the personal supervision of a blaster having a permit issued in accordance with this subchapter may, without a permit, load, unload, detonate, or otherwise effect the explosion of an explosive under the personal supervision of the blaster.

(c) Common carrier railroads subject to the provisions of the Federal Railway Safety Act of 1970, as amended, shall not be subject

to the provisions of this subchapter.

Added by Acts 1989, 71st Leg., ch. 1264, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 235.004 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(20), eff. Sept. 6, 1990. Amended by Acts 1997, 75th Leg., ch. 929, Sec. 3, eff. Sept. 1, 1997. Renumbered from Sec. 236.004 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(8), eff. Sept. 1, 2001.

Sec. 235.005. PERMIT FEES. (a) The county fire marshal of a county who regulates explosives under this subchapter may assess the fees for the issuance or renewal of a permit under this subchapter in reasonable amounts set by the commissioners court.

(b) The county fire marshal shall remit all fees received under this subchapter to the county treasurer to be deposited to the credit of the general fund of the county.

Added by Acts 1989, 71st Leg., ch. 1264, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 235.005 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(20), eff. Sept. 6, 1990. Amended by Acts 1997, 75th Leg., ch. 929, Sec. 4, eff. Sept. 1, 1997. Renumbered from Sec. 236.005 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(8), eff. Sept. 1, 2001.

Sec. 235.006. CRIMINAL PENALTY. (a) A person who violates this subchapter or an order of the commissioners court or a rule adopted under this subchapter commits an offense.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 1989, 71st Leg., ch. 1264, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 235.006 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(20), eff. Sept. 6, 1990. Renumbered from Sec. 236.006 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(8), eff. Sept. 1, 2001.

SUBCHAPTER B. FIREARMS

Sec. 235.020. DEFINITION. In this subchapter, "air gun" has the meaning assigned by Section 229.001.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1210 (S.B. 1400), Sec. 2, eff. June 14, 2013.

Sec. 235.021. SUBDIVISIONS COVERED BY SUBCHAPTER. This subchapter applies only to a subdivision all or a part of which is located in the unincorporated area of a county and for which a plat is required to be prepared and filed under Chapter 232.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 55(a), eff. Aug. 28, 1989. Renumbered from Sec. 240.021 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(9), eff. Sept. 1, 2001.

Sec. 235.022. AUTHORITY TO REGULATE. To promote the public safety, the commissioners court of a county by order may prohibit or otherwise regulate the discharge of firearms and air guns on lots that are 10 acres or smaller and are located in the unincorporated area of the county in a subdivision.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 55(a), eff. Aug. 28, 1989. Renumbered from Sec. 240.022 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(9), eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1210 (S.B. 1400), Sec. 3, eff. June 14, 2013.

Sec. 235.023. PROHIBITED REGULATIONS. This subchapter does not authorize the commissioners court to:

(1) regulate the transfer, ownership, possession, transportation, licensing, or registration of firearms or air guns; or

(2) require an owner of a firearm to obtain liability insurance coverage for damages resulting from negligent or wilful acts involving the use of the firearm.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 55(a), eff. Aug. 28, 1989. Renumbered from Sec. 240.023 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(9), eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1210 (S.B. 1400), Sec. 4, eff. June 14, 2013.

Acts 2023, 88th Leg., R.S., Ch. 595 (H.B. 3137), Sec. 2, eff. September 1, 2023.

Sec. 235.024. INJUNCTION. Any person is entitled to appropriate injunctive relief to prevent a violation or threatened violation of a prohibition or other regulation adopted under this subchapter from continuing or occurring.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 55(a), eff. Aug. 28, 1989. Renumbered from Sec. 240.024 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(9), eff. Sept. 1, 2001.

Sec. 235.025. CRIMINAL PENALTY. A person commits an offense if the person intentionally or knowingly engages in conduct that is a violation of a regulation adopted under this subchapter by the commissioners court. An offense under this section is a Class C misdemeanor. If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section, the offense is a Class B misdemeanor.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 55(a), eff. Aug. 28, 1989. Renumbered from Sec. 240.025 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(9), eff. Sept. 1, 2001.

SUBCHAPTER C. BOWS AND ARROWS

Sec. 235.041. SUBDIVISIONS COVERED BY SUBCHAPTER. This subchapter applies only to a subdivision all or a part of which is located in the unincorporated area of a county and for which a plat is required to be prepared and filed under Chapter 232.

Added by Acts 1993, 73rd Leg., ch. 334, Sec. 1, eff. May 29, 1993. Renumbered from Sec. 240.041 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(10), eff. Sept. 1, 2001.

Sec. 235.042. AUTHORITY TO REGULATE. (a) To promote the

public safety, the commissioners court of a county by order may prohibit or otherwise regulate hunting with bows and arrows on lots that are smaller than seven acres and are located in the unincorporated area of the county in a subdivision.

(b) In this section, "hunting" means to hunt as defined by Section 1.101, Parks and Wildlife Code.

Added by Acts 1993, 73rd Leg., ch. 334, Sec. 1, eff. May 29, 1993. Renumbered from Sec. 240.042 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(10), eff. Sept. 1, 2001.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 238 (S.B. 2284), Sec. 4, eff. September 1, 2025.

Sec. 235.043. PROHIBITED REGULATIONS. This subchapter does not authorize the commissioners court to regulate the transfer, ownership, possession, or transportation of bows and arrows and does not authorize the court to require the registration of bows and arrows.

Added by Acts 1993, 73rd Leg., ch. 334, Sec. 1, eff. May 29, 1993. Renumbered from Sec. 240.043 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(10), eff. Sept. 1, 2001.

Sec. 235.044. INJUNCTION. Any person is entitled to appropriate injunctive relief to prevent a violation or threatened violation of a prohibition or other regulation adopted under this subchapter from continuing or occurring.

Added by Acts 1993, 73rd Leg., ch. 334, Sec. 1, eff. May 29, 1993. Renumbered from Sec. 240.044 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(10), eff. Sept. 1, 2001.

Sec. 235.045. CRIMINAL PENALTY. A person commits an offense if the person intentionally or knowingly engages in conduct that is a violation of a regulation adopted under this subchapter by the commissioners court. An offense under this section is a Class C misdemeanor. If it is shown on the trial of an offense under this

section that the person has previously been convicted of an offense under this section, the offense is a Class B misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 334, Sec. 1, eff. May 29, 1993. Renumbered from Sec. 240.045 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.003(10), eff. Sept. 1, 2001.

CHAPTER 236. COUNTY REGULATION OF FIREARMS, ARCHERY EQUIPMENT, KNIVES, AMMUNITION, FIREARM SUPPLIES, AND SPORT SHOOTING RANGES

Sec. 236.001. DEFINITIONS. In this chapter:

(1) "Air gun," "ammunition," and "firearm or air gun accessory" have the meanings assigned by Section 229.001.

(1-a) "Knife" has the meaning assigned by Section 46.01, Penal Code.

(2) "Sport shooting range" has the meaning assigned by Section 250.001.

(3) "Archery equipment" has the meaning assigned by Section 229.001.

Added by Acts 2011, 82nd Leg., R.S., Ch. 624 (S.B. 766), Sec. 6, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1210 (S.B. 1400), Sec. 5, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 700 (H.B. 905), Sec. 5, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1164 (H.B. 3231), Sec. 2, eff. September 1, 2019.
Acts 2025, 89th Leg., R.S., Ch. 238 (S.B. 2284), Sec. 6, eff. September 1, 2025.

Sec. 236.002. FIREARMS; AIR GUNS; ARCHERY EQUIPMENT; SPORT SHOOTING RANGE. (a) Notwithstanding any other law, including Chapter 251, Agriculture Code, a county may not adopt or enforce regulations that:

(1) relate to:

(A) the transfer, possession, wearing, carrying, ownership, storage, transportation, licensing, or registration of firearms, air guns, archery equipment, knives, ammunition, or firearm

or air gun supplies or accessories;

(B) commerce in firearms, air guns, archery equipment, knives, ammunition, or firearm or air gun supplies or accessories; or

(C) the discharge of a firearm, air gun, or archery equipment at a sport shooting range; or

(2) require an owner of a firearm or archery equipment to obtain liability insurance coverage for damages resulting from negligent or wilful acts involving the use of the firearm or archery equipment.

(b) An ordinance, rule, resolution, or policy adopted or enforced by a county, or an official action, including in any legislative, police power, or proprietary capacity, taken by an employee or agent of a county in violation of this section is void.

(c) Subsection (a) does not affect the authority of a county to:

(1) require a resident or public employee to be armed for personal or national defense, law enforcement, or other purpose under other law;

(2) regulate the discharge of firearms or air guns in accordance with Section 235.022;

(3) regulate the carrying of a firearm by a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, in accordance with Section 411.209, Government Code;

(4) except as provided by Subsection (d), adopt or enforce a generally applicable land use regulation, fire code, or business regulation; or

(5) except as provided by Subsection (e), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

(d) A county order or regulation designed or enforced to effectively restrict or prohibit the manufacture, sale, purchase, transfer, or display of firearms, firearm accessories, or ammunition that is otherwise lawful in this state is void.

(e) Subsection (c)(5) does not authorize a county to regulate an employee's carrying or possession of a firearm in violation of Subchapter G, Chapter 52, Labor Code.

(f) The attorney general may bring an action in the name of the state to obtain a temporary or permanent injunction against a county adopting a regulation, other than a regulation under Section 236.003,

in violation of this section. The attorney general may recover reasonable expenses incurred in obtaining an injunction under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

Added by Acts 2011, 82nd Leg., R.S., Ch. 624 (S.B. 766), Sec. 6, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1210 (S.B. 1400), Sec. 6, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 700 (H.B. 905), Sec. 6, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1164 (H.B. 3231), Sec. 3, eff. September 1, 2019.
Acts 2023, 88th Leg., R.S., Ch. 595 (H.B. 3137), Sec. 3, eff. September 1, 2023.
Acts 2025, 89th Leg., R.S., Ch. 238 (S.B. 2284), Sec. 7, eff. September 1, 2025.
Acts 2025, 89th Leg., R.S., Ch. 238 (S.B. 2284), Sec. 8, eff. September 1, 2025.

Sec. 236.003. REGULATION OF OUTDOOR SPORT SHOOTING RANGE. Notwithstanding Section 236.002, a county may regulate the discharge of a firearm or air gun at an outdoor sport shooting range as provided by Subchapter B, Chapter 235.

Added by Acts 2011, 82nd Leg., R.S., Ch. 624 (S.B. 766), Sec. 6, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1210 (S.B. 1400), Sec. 7, eff. June 14, 2013.

CHAPTER 240. MISCELLANEOUS REGULATORY AUTHORITY OF COUNTIES

SUBCHAPTER A. REGULATION OF KEEPING OF WILD ANIMALS

Sec. 240.001. DEFINITION. In this subchapter, "wild animal" means a nondomestic animal that the commissioners court of a county determines is dangerous and is in need of control in that county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 240.002. REGULATION. (a) The commissioners court of a county by order may prohibit or regulate the keeping of a wild animal in the county.

(b) The order does not apply inside the limits of a municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 54, Sec. 2, eff. Sept. 1, 2001.

Sec. 240.003. OFFENSE. (a) A person commits an offense if the person violates an order adopted under this subchapter and the order defines the violation as an offense.

(b) An offense under this section is prosecuted in the same manner as an offense defined under state law.

(c) An offense under this section is a Class C misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 240.004. INJUNCTION. The county attorney or an attorney representing the county may file an action in a district court to enjoin a violation or threatened violation of an order adopted under this subchapter. The court may grant appropriate relief.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. OUTDOOR LIGHTING NEAR OBSERVATORIES AND MILITARY INSTALLATIONS

Sec. 240.031. DEFINITIONS. In this subchapter:

(1) "Major astronomical observatory" means a facility that is established to conduct scientific observations of astronomical phenomena and is equipped with one or more telescopes that:

(A) have objective diameters that total 69 inches or more; and

(B) are permanently mounted in enclosed buildings.

(2) "Outdoor lighting" means any type of fixed or movable lighting equipment that is designed or used for illumination out of

doors. The term includes billboard lighting, street lights, searchlights and other lighting used for advertising purposes, and area lighting. The term does not include lighting equipment that is required by law to be installed on motor vehicles or lighting required for the safe operation of aircraft.

(3) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1166, Sec. 5, eff. January 1, 2012.

(4) "Agricultural use" has the meaning assigned by Section 23.51, Tax Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 975, Sec. 1, eff. June 15, 2001; Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 233 (H.B. 1852), Sec. 1, eff. May 25, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. 2857), Sec. 5, eff. January 1, 2012.

Sec. 240.032. COUNTY REGULATORY AUTHORITY; ADOPTION OF ORDERS. (a) The commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, shall adopt orders regulating the installation and use of outdoor lighting in any unincorporated territory of the county.

(b) On the request of the director of the George Observatory or the Stephen F. Austin State University Observatory, the commissioners court of a county, any part of which is located within five miles of a major astronomical observatory at the George Observatory or the Stephen F. Austin State University Observatory, may adopt orders regulating the installation and use of outdoor lighting in any unincorporated territory of the county.

(b-1) This subsection applies only to a county with a population of more than one million that has at least five United States military bases and to any county adjacent to that county that is within five miles of a United States Army installation, base, or camp. On the request of a United States military installation, base, or camp commanding officer, the commissioners court of a county subject to this subsection may adopt orders regulating the

installation and use of outdoor lighting within five miles of the installation, base, or camp in any unincorporated territory of the county.

(c) The orders must be designed to protect against the use of outdoor lighting in a way that interferes with scientific astronomical research of the observatory or military and training activities of the military installation, base, or camp. In the orders, the commissioners court may:

(1) require that a permit be obtained from the county before the installation and use of certain types of outdoor lighting in a regulated area;

(2) establish a fee in an amount to cover the costs of administrating the order for the issuance of the permit;

(3) prohibit the use of a type of outdoor lighting that is incompatible with the effective use of the observatory or military installation, base, or camp;

(4) establish requirements for the shielding of outdoor lighting; and

(5) regulate the times during which certain types of outdoor lighting may be used.

(d) The commissioners court may apply more stringent standards for areas in which the use of outdoor lighting has a greater impact on observatory or military installation, base, or camp activities.

(e) The commissioners court may adopt an order under this subchapter only after conducting a public hearing on the proposed order. The court shall give at least two weeks' public notice of the hearing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 182, Sec. 1, eff. May 26, 1989; Acts 2001, 77th Leg., ch. 975, Sec. 2, eff. June 15, 2001; Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 233 (H.B. 1852), Sec. 3, eff. May 25, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1114 (H.B. 1013), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. 2857), Sec. 2, eff. January 1, 2012.

Sec. 240.0325. EXCEPTION FOR CERTAIN OUTDOOR LIGHTING. The commissioners court may not adopt an order under Section 240.032 regulating the installation and use of outdoor lighting that is located within five miles of a military installation, base, or camp located in the unincorporated area of a county and:

(1) was installed or used before the effective date of the order and is necessary for the operations of:

(A) an electric utility, power generation company, or transmission and distribution utility, as those terms are defined by Section 31.002, Utilities Code;

(B) an electric cooperative or a municipally owned utility, as those terms are defined by Section 11.003, Utilities Code;

(C) a gas utility, as defined by Section 101.003 or 121.001, Utilities Code;

(D) surface coal mining and reclamation operations, as defined by Section 134.004, Natural Resources Code;

(E) a telecommunications provider, as defined by Section 51.002, Utilities Code, or its affiliates; or

(F) a manufacturing facility required by Texas Commission on Environmental Quality rule to hold a permit; or

(2) is owned or maintained for the purpose of illuminating:

(A) a tract of land that is maintained as a single family residence and that is located outside the boundaries of a platted subdivision;

(B) a tract of land maintained for agricultural use;

(C) an activity that takes place on a tract of land maintained for agricultural use;

(D) structures or related improvements located on a tract of land maintained for agricultural use; or

(E) a correctional facility operated by or under a contract with the Texas Department of Criminal Justice.

Added by Acts 2007, 80th Leg., R.S., Ch. 233 (H.B. 1852), Sec. 4, eff. May 25, 2007.

Sec. 240.033. REGULATION OF SUBDIVISIONS. (a) This section applies only to real estate subdivisions subject to the plat approval authority of the commissioners court of a county.

(b) The commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, shall adopt orders establishing standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

(c) The commissioners court of a county, any part of which is located within five miles of a major astronomical observatory at the George Observatory or the Stephen F. Austin State University Observatory, may adopt orders establishing standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

(d) A commissioners court that adopts orders under this section may not approve a plat of a proposed subdivision that does not meet the standards established in the orders.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 182, Sec. 2, eff. May 26, 1989; Acts 2001, 77th Leg., ch. 975, Sec. 3, eff. June 15, 2001; Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1166 (H.B. 2857), Sec. 3, eff. January 1, 2012.

Sec. 240.034. EXEMPTION. This subchapter does not apply to outdoor lighting in existence or under construction on September 1, 1975.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 234.004 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001.

Sec. 240.035. ENFORCEMENT; PENALTY. (a) A county or district attorney may sue in the district court to enjoin a violation of this subchapter.

(b) A person who violates an order adopted under this subchapter commits an offense. An offense under this section is a Class C misdemeanor.

(c) Both civil and criminal enforcement may be used against the same conduct.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 234.005 and amended by Acts 2001, 77th Leg., ch; 1420, Sec. 12.003(11), eff. Sept. 1, 2001.

SUBCHAPTER C. REGULATION OF WATER WELLS IN CERTAIN COUNTIES

Sec. 240.041. DEFINITION. In this subchapter, "on-site sewage disposal system" has the meaning assigned by Section 366.002, Health and Safety Code.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.042. AUTHORITY TO REGULATE PLACEMENT OF WATER WELLS. (a) The commissioners court of a county with a population of 2.1 million or more by order may regulate the placement of private water wells in the unincorporated area of the county to prevent:

(1) the contamination of a well from an on-site sewage disposal system;

(2) rendering an on-site sewage disposal system that was in place before the well was drilled out of compliance with applicable law because of the placement of the well; and

(3) drilling of a domestic well into a contaminated groundwater plume or aquifer.

(b) A commissioners court that decides to regulate the placement of private water wells under this subchapter by order shall adopt rules governing the placement of a water well in relation to an existing on-site sewage disposal system or drilling into a contaminated groundwater plume or aquifer and enforcement of those rules. The rules must require:

(1) a person desiring to drill a private water well, or the owner of the land on which the well is to be located, to:

(A) notify the county health officer or an official designated by the commissioners court of the intent to drill the well; and

(B) include with the notice a diagram showing the proposed location of the well and its distance from any on-site sewage disposal system that is located within 100 feet of the well; and

(2) the county health officer or an official designated by the commissioners court to:

(A) review the notice and diagram;

(B) not later than the 10th business day after the date the notice is received:

(i) approve the drilling of the well if the well will not be drilled into or through an aquifer or groundwater plume that has been confirmed as contaminated by the Texas Commission on Environmental Quality or the United States Environmental Protection Agency and placement of the well will not violate the rules adopted by the Texas Commission of Licensing and Regulation under Chapters 1901 and 1902, Occupations Code; or

(ii) disapprove the drilling of the well; and

(C) provide a written acknowledgment to the person desiring to drill the well and to the owner of the land on which the well is to be located that states:

(i) that the requirements of the rules adopted under Subdivision (1) have been satisfied; and

(ii) whether the drilling of the well has been approved or disapproved.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 83, eff. September 1, 2011.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 149, eff. September 1, 2023.

Sec. 240.043. NOTICE. (a) Before rules adopted under Section 240.042 may take effect, the commissioners court of the county must publish notice of the adoption of the rules in a newspaper of general circulation in the county.

(b) The notice must:

(1) include:

(A) a brief summary of the rules; and

(B) a statement that the full text of the rules is on file in the office of the county clerk; and

(2) be published on two separate dates.

(c) The rules may not take effect until after the 14th day after the date of the second publication as provided by Subsection (b)(2).

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.044. FEE. The county may impose a placement review fee in the amount of not more than $50 to be paid by the person drilling the well. Fees collected under this section shall be deposited to the county's general fund to be used only for the administration and enforcement of this subchapter.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.045. INSPECTION. A county health officer or an official designated by the commissioners court may inspect a proposed private water well site to ensure that it complies with the requirements of this subchapter and county rules adopted under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.046. COMPLIANCE REQUIRED. A person may not drill a private water well in a county that has chosen to regulate the placement of private water wells under this subchapter unless the placement of the well complies with this subchapter and applicable rules and has been approved by the county health officer or an official designated by the commissioners court.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.047. OFFENSE; PENALTY. (a) A person who drills a private water well without possessing a written acknowledgment, or a

copy of a written acknowledgment, under Section 240.042 by the county health officer or an official designated by the commissioners court approving the drilling of the well commits an offense. An offense under this section is a Class C misdemeanor.

(b) The county health officer or an official designated by the commissioners court shall report a citation issued under this section to the Texas Department of Licensing and Regulation.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.

Sec. 240.048. EXCEPTIONS. This subchapter does not apply to:

(1) a private water well drilled:

(A) on a parcel of land that:

(i) is 10 acres or more in size; or

(ii) is qualified open-space land, as defined by Section 23.51, Tax Code;

(B) within the boundaries of a groundwater conservation district;

(C) within the boundaries of a subsidence district other than the Harris-Galveston Subsidence District; or

(D) incident to the exploration, development, or production of oil, gas, or other minerals; or

(2) a public water system that has been permitted under rules adopted by the Texas Commission on Environmental Quality.

Added by Acts 2005, 79th Leg., Ch. 794 (S.B. 343), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 12.005, eff. September 1, 2013.

SUBCHAPTER E. COMMUNICATION FACILITY STRUCTURES

Sec. 240.081. DEFINITIONS. In this subchapter:

(1) "Residential subdivision" means a subdivision:

(A) for which a plat is recorded in the county real property records;

(B) in which the majority of the lots are subject to deed restrictions limiting the lots to residential use; and

(C) that includes at least five lots that have existing residential structures.

(2) "Communication facility structure" means:

(A) antenna support structures for mobile and wireless telecommunication facilities, whip antennas, panel antennas, microwave dishes, or receive-only satellite dishes;

(B) cell enhancers and related equipment for wireless transmission from a sender to one or more receivers for mobile telephones, mobile radio systems facilities, commercial radio service, or other services or receivers; or

(C) a monopole tower, a steel lattice tower, or any other communication tower supporting mobile and wireless telecommunication facilities.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.082. APPLICABILITY. (a) This subchapter applies only to real property that is located in the unincorporated area of a county with a population of 2.1 million or more.

(b) This subchapter does not apply to:

(1) existing communication facilities or other structures used for the purpose of colocation, provided the height is not increased by more than 10 feet;

(2) a communication facility structure built to replace an existing communication facility structure if:

(A) the replacement communication facility structure is constructed within 50 feet of the existing communication facility structure;

(B) the replacement communication facility structure is no higher than and constructed for the same purpose as the existing communication facility structure; and

(C) the existing communication facility structure is removed not later than the 14th day after the date the replacement communication facility begins operations; or

(3) a communications antenna, antenna facility, or antenna tower or support structure located in a residential area that is used by an amateur radio operator exclusively for amateur radio communications or public safety services.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 84, eff. September 1, 2011.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 150, eff. September 1, 2023.

Sec. 240.083. AUTHORITY OF COUNTY TO REGULATE. (a) Subject to the restrictions in Section 240.084, the commissioners court of a county subject to this subchapter may by order regulate the location of communication facility structures in the unincorporated areas of the county.

(b) The regulations may include a requirement for a permit for the construction or expansion of the facility and may impose fees, not to exceed $50, on regulated persons to recover the cost of administering the regulations.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.084. LOCATION OF COMMUNICATION FACILITY STRUCTURE. The commissioners court of a county that is subject to this subchapter may by order prohibit the construction of a communication facility structure within 300 feet, or the height of the structure, whichever is greater, of a residential subdivision.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.085. FILING REQUIREMENTS REGARDING CONSTRUCTION. A person proposing to construct a communication facility structure in the unincorporated area of a county subject to this subchapter shall file with the county official designated by the commissioners court:

(1) a statement informing the county that the construction is proposed and providing the date on or after which the construction is proposed to begin;

(2) copies of any necessary permits from the Federal

Communications Commission or Federal Aviation Administration;

(3) a plat or map of the specific proposed location of the communication facility structure; and

(4) the correct phone number and address of the entity primarily responsible for the construction.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.086. VARIANCES. (a) A person who desires to construct or increase the height of a communication facility structure in violation of an order adopted by a county subject to this subchapter may apply to the commissioners court of the county for a variance from the regulation.

(b) The commissioners court may allow a variance from a regulation if the commissioners court finds that:

(1) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and

(2) the granting of the relief would:

(A) result in substantial justice being done;

(B) not be contrary to the public interest; and

(C) be in accordance with the spirit of the regulation and this subchapter.

(c) The commissioners court may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this subchapter.

(d) Before granting a request for a variance under this section, the county may require the applicant to prominently post an outdoor sign at the location stating that a communication facility structure is intended to be located on the premises and providing the name and business address of the applicant.

(e) The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size. The county in which the communication facility structure is to be located may require the sign to be in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.087. OFFENSE. (a) A person commits an offense if the person violates an order adopted under this subchapter and the order defines the violation as an offense.

(b) An offense under this section is prosecuted in the same manner as an offense defined under state law.

(c) An offense under this section is a Class C misdemeanor.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

Sec. 240.088. INJUNCTION. The county attorney or an attorney representing the county may file an action in a district court to enjoin a violation or threatened violation of an order adopted under this subchapter. The court may grant appropriate relief.

Added by Acts 2005, 79th Leg., Ch. 945 (H.B. 843), Sec. 1, eff. June 18, 2005.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 240.901. LAND USE REGULATION FOR FLOOD CONTROL IN COASTAL COUNTIES. (a) This state recognizes the personal hardships and economic distress caused by flood disasters since it has become uneconomical for the private insurance industry alone to make flood insurance available to those in need of protection on reasonable terms and conditions. Recognizing the burden on the nation's resources, congress enacted the National Flood Insurance Act of 1968, under which flood insurance can be made available through the coordinated efforts of the federal government and the private insurance industry by pooling risks and by the positive cooperation of state and local governments. The purpose of this subchapter is to evidence a positive interest in securing flood insurance coverage under the federal program, thus procuring coverage for the citizens of this state who desire to participate, to promote the public interest by providing appropriate protection against the perils of flood losses, and to encourage sound land use by minimizing exposure of property to flood losses.

(b) A county bordering on the Gulf of Mexico or on the

tidewater limits of the gulf may determine the boundaries of any flood-prone area of the county. The suitability of that determination is conclusively established when the commissioners court of the county adopts a resolution finding that the area is a flood-prone area.

(c) The commissioners court may adopt and enforce rules that regulate the management and use of land, structures, and other development in a flood-prone area of the county in order to reduce the extent of damage caused by flooding. The matters to which the rules may apply include:

(1) the floodproofing of structures located or to be constructed in the area;

(2) the minimum elevation of a structure permitted to be constructed or improved in the area;

(3) specifications for drainage;

(4) the prohibition of the connection of land with water, sewer, electricity, and gas utility service, if a structure or other development on the land is not in compliance with a rule adopted by the commissioners court; and

(5) any other action feasible to minimize flooding and rising water damage.

(d) In this section, "flood-prone area" means an area that is subject to damage from rising water or flooding from the Gulf of Mexico or its tidal waters, including lakes, bays, inlets, and lagoons.

(e) Rules and regulations adopted by counties under this section shall comply with rules and regulations promulgated by the Commissioner of the General Land Office under Sections 16.320 and 16.321, Water Code.

(f) If the commissioners court prohibits the connection of land with water, sewer, electricity, and gas utility service under Subsection (c)(4), a person may not provide utility services that connect the land with utility services without written certification from the county that the property complies with rules adopted under this section.

(g) A commissioners court may authorize procedures for filing a notice in the real property records of the county in which a property is located that identifies any condition on the property that the county determines violates the rules adopted under this section or a permit issued under this section. The notice is not a final legal

determination and is meant only to provide notice of the county's determination that a violation of the rules or a permit exists on the property. The notice must include a description legally sufficient for identification of the property and the name of the owner of the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 295, Sec. 40, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 461, Sec. 1, eff. Sept. 1, 1997.

Sec. 240.902. CLOSING OF GULF BEACHES. (a) The commissioners court of a county in which a public beach is located may by order close a part of the beach for a maximum of three days each year to allow a nonprofit organization to hold an event on the beach to which the public is invited and to which the organization charges no more than a nominal admission fee.

(b) In this section, "public beach" means a beach located on a bay or inlet of the Gulf of Mexico to which the general public or a substantial part of the general public has free access.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 240.905. LAND USE REGULATION FOR FLOOD CONTROL IN TRINITY RIVER BASIN. (a) The commissioners court of a county located below the dam of Lake Livingston with all or part of its area within the 100-year floodplain of the Trinity River basin as described by county maps developed according to Federal Emergency Management Agency requirements may adopt and enforce rules that regulate the future construction of residences and the laying out of residential lots or the development of subdivisions in that portion of the county located in the 100-year floodplain of the Trinity River basin.

(b) Before the commissioners court may adopt and enforce the rules described in Subsection (a) of this section the commissioners court must make a determination that the rules are necessary to protect the health and safety of the public by reducing the damage caused by flooding in the 100-year floodplain.

(c) The rules described in Subsection (a) of this section apply only to development and construction commenced after the effective date of this section for:

(1) the flood-proofing of structures constructed or placed in the floodplain;

(2) the type of structures which may be constructed or placed in the floodplain;

(3) the minimum elevation of structures constructed or placed in the floodplain; and

(4) specification for drainage of residential lots or subdivisions to be laid out in the floodplain.

(d) The commissioners court may not regulate new manufactured or industrialized housing constructed to preemptive state or federal building standards for siting or zoning purposes in any manner that is different from regulation of site-built housing.

Added by Acts 1991, 72nd Leg., ch. 858, Sec. 4, eff. Sept. 1, 1991. Renumbered from Sec. 240.904 by Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 8.01(19), eff. Nov. 12, 1991.

Sec. 240.907. FEE FOR CUTTING COUNTY ROAD. (a) In this section, a cut of a county road means the act of excavating or cutting the surface of a county road.

(b) To provide funds for the future inspection, repair, and maintenance of a cut road, a county may impose a fee on a person or other entity for each cut of a county road during or as an incident to the installation, maintenance, or repair of any facilities or properties of the person or entity.

(c) The fee authorized by this section:

(1) may not exceed $500;

(2) may be imposed either before or after the cutting of the road; and

(3) is in addition to any other charge the county is authorized to impose to repair damage to the road because of the cut.

(d) This section does not apply in relation to a person or other entity that:

(1) has entered into an agreement with the county that provides for fees to be paid by the person or entity for the use of the county roads; or

(2) is a utility that is not required under Chapter 181, Utilities Code, to provide notice to a commissioners court of a county.

Added by Acts 2005, 79th Leg., Ch. 957 (H.B. 1610), Sec. 1, eff. June 18, 2005.

Sec. 240.909. REGULATION OF TREE CUTTING IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of 50,000 or less that borders the Gulf of Mexico and in which is located at least one state park and one national wildlife refuge.

(b) The commissioners court of a county subject to this section may prohibit or restrict the clear-cutting of live oak trees in the unincorporated area of the county.

(c) A person commits an offense if the person violates an order adopted under this section and the order defines the violation as an offense. An offense under this section is a Class C misdemeanor punishable by a fine not to exceed $500. An offense under this section is prosecuted in the same manner as an offense defined under state law.

(d) The county attorney or an attorney representing the county may file an action in district court to enjoin a violation or threatened violation of an order adopted under this section. The court may grant appropriate relief.

(e) This subchapter, or an order or zoning regulation adopted under this subchapter, does not apply to the facilities or operations of an electric utility as defined by Section 31.002, Utilities Code, or a gas utility as defined by Section 101.003 or 121.001, Utilities Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1398 (S.B. 2553), Sec. 1, eff. June 19, 2009.

Sec. 240.910. REGULATION OF LITTER AND MOSQUITO CONTROL IN CERTAIN COUNTIES. (a) This section applies only to a county located on an international border and adjacent to the Gulf of Mexico.

(b) In this section:

(1) "Illegally dumped litter" means litter dumped anywhere other than in an approved solid waste site, as defined by Section 365.011, Health and Safety Code.

(2) "Litter" has the meaning assigned by Section 365.011, Health and Safety Code.

(c) In addition to the authority granted under Section 365.017, Health and Safety Code, the commissioners court of a county may adopt and enforce orders to:

(1) control the disposal of litter and the removal of illegally dumped litter from public or private property; and

(2) regulate the storage or abandonment of property, including tires and appliances, on public or private property that creates a nuisance or habitat conducive to mosquito breeding.

(d) An order adopted under this section:

(1) applies only to the unincorporated area of the county;

(2) may require the record property owner to pay for the cost of enforcing the order on the property owner's land if the commissioners court gives the property owner 30 days' written notice of the enforcement action; and

(3) may not regulate manufactured or industrialized housing constructed to state or federal building standards in a manner that is different from regulation of site-built housing.

(e) This section does not authorize the adoption of:

(1) zoning regulations not otherwise authorized under Chapter 231; or

(2) building regulations not otherwise authorized under Chapter 233.

Added by Acts 2019, 86th Leg., R.S., Ch. 350 (H.B. 2566), Sec. 1, eff. June 2, 2019.

Sec. 240.911. BOND FOR PIPELINE CONSTRUCTION. A county may not require a cash bond as a condition of approval for the construction of a pipeline in the county's boundaries.

Added by Acts 2025, 89th Leg., R.S., Ch. 166 (H.B. 206), Sec. 1, eff. September 1, 2025.

SUBTITLE C. REGULATORY AUTHORITY APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 241. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND AIRPORTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 241.001. SHORT TITLE. This chapter may be cited as the Airport Zoning Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.002. LEGISLATIVE FINDINGS. The legislature finds that:

(1) an airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;

(2) an airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, tending to destroy or impair the utility of the airport and the public investment in the airport;

(3) the creation of an airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;

(4) it is necessary in the interest of the public health, public safety, and general welfare to prevent the creation of an airport hazard;

(5) the creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation; and

(6) the prevention of the creation of an airport hazard and the elimination, the removal, the alteration, the mitigation, or the marking and lighting of an airport hazard are public purposes for which a political subdivision may raise and spend public funds and acquire land or interests in land.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.003. DEFINITIONS. In this chapter:

(1) "Airport" means an area of land or water, publicly or privately owned, designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for that purpose. The term includes an area with installations relating to flights, including installations, facilities, and bases of operations for tracking flights or acquiring data concerning flights.

(2) "Airport hazard" means a structure or object of natural growth that obstructs the air space required for the taking off,

landing, and flight of aircraft or that interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.

(3) "Airport hazard area" means an area of land or water on which an airport hazard could exist.

(4) "Airport zoning regulation" means an airport hazard area zoning regulation and an airport compatible land use zoning regulation adopted under this chapter.

(5) "Centerline" means a line extending through the midpoint of each end of a runway.

(6) "Compatible land use" means a use of land adjacent to an airport that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the airport, including the taking off and landing of aircraft.

(7) "Controlled compatible land use area" means an area of land located outside airport boundaries and within a rectangle bounded by lines located no farther than 1-1/2 statute miles from the centerline of an instrument or primary runway and lines located no farther than five statute miles from each end of the paved surface of an instrument or primary runway.

(8) "Instrument runway" means an existing or planned runway of at least 3,200 feet for which an instrument landing procedure published by a defense agency of the federal government or the Federal Aviation Administration exists or is planned.

(9) "Obstruction" means a structure, growth, or other object, including a mobile object, that exceeds a limiting height established by federal regulations or by an airport hazard area zoning regulation.

(10) "Political subdivision" means a municipality or county.

(11) "Primary runway" means an existing or planned paved runway, as shown in the official airport layout plan (ALP) of the airport, of at least 3,200 feet on which a majority of the approaches to and departures from the airport occur.

(12) "Runway" means a defined area of an airport prepared for the landing and taking off of aircraft along its length.

(13) "Structure" means an object constructed or installed by one or more persons and includes a building, tower, smokestack,

and overhead transmission line.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.004. AIRPORT USED IN INTEREST OF PUBLIC. For the purposes of this chapter, an airport is used in the interest of the public if:

(1) the owner of the airport, by contract, license, or otherwise, permits the airport to be used by the public to an extent that the airport fulfills an essential community purpose; or

(2) the airport is used by the state or an agency of the state or by the United States for national defense purposes or for any federal program relating to flight.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.005. ADOPTION OF REGULATION INCLUDES AMENDMENT OR OTHER CHANGE. A reference in this chapter to the adoption of an airport zoning regulation includes the amendment, repeal, or other change of a regulation. A reference to the adoption of an airport zoning regulation also includes the amendment of an airport zoning regulation existing on the date the law codified by this chapter took effect, which was September 5, 1947.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. ADOPTION OF AIRPORT ZONING REGULATIONS

Sec. 241.011. AIRPORT HAZARD AREA ZONING REGULATIONS. (a) To prevent the creation of an airport hazard, a political subdivision in which an airport hazard area is located may adopt, administer, and enforce, under its police power, airport hazard area zoning regulations for the airport hazard area.

(b) The airport hazard area zoning regulations may divide an airport hazard area into zones and for each zone:

(1) specify the land uses permitted;

(2) regulate the type of structures; and

(3) restrict the height of structures and objects of natural growth to prevent the creation of an obstruction to flight

operations or air navigation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.012. AIRPORT COMPATIBLE LAND USE ZONING REGULATIONS. (a) A political subdivision may adopt, administer, and enforce, under its police power, airport compatible land use zoning regulations for the part of a controlled compatible land use area located within the political subdivision if the airport is:

(1) used in the interest of the public to the benefit of the political subdivision; or

(2) located within the political subdivision and owned or operated by a federal defense agency or by the state.

(b) The political subdivision by ordinance or resolution may implement, in connection with airport compatible land use zoning regulations, any federal law or rules controlling the use of land located adjacent to or in the immediate vicinity of the airport.

(c) The airport compatible land use zoning regulations must include a statement that the airport fulfills an essential community purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.013. EXTRATERRITORIAL ZONING IN POLITICAL SUBDIVISIONS WITH POPULATION OF MORE THAN 45,000. (a) A political subdivision with a population of more than 45,000 in which an airport used in the interest of the public to the benefit of the political subdivision is located may adopt, administer, and enforce:

(1) airport hazard area zoning regulations applicable to an airport hazard area relating to the airport and located outside the political subdivision; and

(2) airport compatible land use zoning regulations applicable to a controlled compatible land use area relating to the airport and located outside the political subdivision.

(b) The political subdivision has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Sections 241.011 and 241.012.

(c) The airport hazard area zoning regulations or airport

compatible land use zoning regulations must include a statement that the airport fulfills an essential community purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 98, Sec. 1, 2, eff. Aug. 26, 1991.

Sec. 241.014. JOINT AIRPORT ZONING BOARD. (a) A political subdivision to whose benefit an airport is used in the interest of the public or in which an airport owned or operated by a defense agency of the federal government or the state is located may create a joint airport zoning board with another political subdivision in which an airport hazard area or a controlled compatible land use area relating to the airport is located. The political subdivisions must act by resolution or ordinance in creating the joint board.

(b) The joint airport zoning board has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Sections 241.011 and 241.012.

(c) The joint airport zoning board must consist of two members appointed by each of the political subdivisions creating the board and, in addition, a chairman elected by a majority of the appointed members.

(d) If an agency of the state owns and operates an airport located within an airport hazard area or controlled compatible land use area governed by a joint airport zoning board, the agency is entitled to have two members on the board.

(e) The joint airport zoning board for an airport that is owned or operated by a defense agency of the federal government and that is closed by the federal government may provide that zoning regulations adopted by the board continue in effect until the fourth anniversary of the date the airport is closed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 352, Sec. 1, eff. May 27, 1997; Acts 1999, 76th Leg., ch. 1176, Sec. 1, eff. June 18, 1999.

Sec. 241.015. INCORPORATION OF AIRPORT ZONING REGULATION INTO COMPREHENSIVE ZONING ORDINANCE. A political subdivision may incorporate an airport zoning regulation in a comprehensive zoning

ordinance and administer and enforce it in connection with the administration and enforcement of the comprehensive zoning ordinance if:

(1) the two zoning regulations apply, in whole or in part, to the same area; and

(2) the comprehensive zoning ordinance includes, among other matters, a regulation on the height of buildings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.016. AIRPORT ZONING COMMISSION. (a) Before an airport zoning regulation may be adopted, a political subdivision acting unilaterally under Section 241.013 must appoint an airport zoning commission. If the political subdivision has a planning commission or comprehensive zoning commission, that commission may be designated as the airport zoning commission.

(b) The commission shall recommend the boundaries of the zones to be established and the regulations for these zones.

(c) The commission shall make a preliminary report and hold public hearings on the report before submitting a final report.

(d) Before the 15th day before the date of a hearing under Subsection (c), notice of the hearing shall be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the airport hazard area or controlled compatible land use area to be zoned is located.

(e) A joint airport zoning board created under Section 241.014 is not required to appoint a commission under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 697, Sec. 1, eff. Sept. 1, 1995.

Sec. 241.017. PROCEDURAL LIMITATIONS APPLYING TO ADOPTION OF ZONING REGULATIONS. (a) The governing body of a political subdivision may not hold a public hearing or take other action concerning an airport zoning regulation until it receives the final report of the airport zoning commission.

(b) An airport zoning regulation may not be adopted except by action of the governing body of the political subdivision or a joint airport zoning board after the political subdivision or joint airport

zoning board holds a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard.

(c) Before the 15th day before the date of a hearing under Subsection (b), notice of the hearing must be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the area to be zoned is located.

(d) A procedural requirement adopted or applied by a political subdivision, including any requirement in the charter of a home-rule municipality, that imposes a waiting period before the adoption of a zoning regulation or requires the submission of a zoning regulation to a binding referendum election does not apply to this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 697, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 190 (S.B. 1360), Sec. 2, eff. May 23, 2007.

Sec. 241.018. REASONABLENESS OF AIRPORT ZONING REGULATIONS. (a) An airport zoning regulation must be reasonable and may impose a requirement or restriction only if the requirement or restriction is reasonably necessary to achieve the purposes of this chapter.

(b) In determining which airport zoning regulations to adopt, the governing body of a political subdivision or a joint airport zoning board shall consider, among other things:

(1) the character of the flying operations expected to be conducted at the airport;

(2) the nature of the terrain within the airport hazard area;

(3) the character of the neighborhood; and

(4) the current and possible uses of the property to be zoned.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.019. NONCONFORMING USES AND STRUCTURES. Except as provided by Section 241.035, airport zoning regulations may not require:

(1) changes in nonconforming land use existing on the date

of the adoption of the regulations;

(2) the removal, lowering, or other change of a structure that does not conform to the regulations on the date of their adoption, including all phases or elements of a multiphase structure, regardless of whether actual construction has commenced, that received a determination of no hazard by the Federal Aviation Administration under 14 C.F.R., Part 77, before the regulations were adopted;

(3) the removal, lowering, or other change of an object of natural growth that does not conform to the regulations on the date of their adoption; or

(4) any other interference in the continuation of a use that does not conform to the regulations on the date of their adoption.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.020. PERMITS. (a) Airport zoning regulations may require that a permit be obtained before:

(1) a new structure is constructed;

(2) an existing structure is substantially changed or repaired;

(3) a new use is established; or

(4) an existing use is substantially changed.

(b) Airport zoning regulations must provide that a permit be obtained from the administrative agency authorized to administer and enforce the regulations before:

(1) a nonconforming structure may be replaced, rebuilt, or substantially changed or repaired; or

(2) a nonconforming object of natural growth may be replaced, substantially changed, allowed to grow higher, or replanted.

(c) A permit may not allow:

(1) the establishment of an airport hazard;

(2) a nonconforming use to be made;

(3) a nonconforming structure or object of natural growth to become higher than it was at the time of the adoption of the airport zoning regulations relating to the structure or object of natural growth or at the time of the application for the permit; or

(4) a nonconforming structure, object of natural growth, or use to become a greater hazard to air navigation than it was at the time of the adoption of the airport zoning regulations relating to the structure, object of natural growth, or use or at the time of the application for the permit.

(d) Except as provided by Subsection (c), an application for a permit shall be granted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. ADMINISTRATIVE AGENCY AND BOARD OF ADJUSTMENT

Sec. 241.031. ADMINISTRATIVE AGENCY. (a) Airport zoning regulations must provide for the administration and enforcement of the regulations by an administrative agency. The administrative agency may be:

(1) an agency created by the regulations;

(2) an existing official, board, or agency of the political subdivision adopting the regulations; or

(3) an existing official, board, or other agency of a political subdivision that participated in the creation of a joint airport zoning board adopting the regulations, if satisfactory to that political subdivision.

(b) The administrative agency may not be the board of adjustment or include any member of the board.

(c) The administrative agency shall hear and decide all applications for permits under Section 241.020.

(d) The agency may not exercise any of the powers delegated to the board of adjustment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.032. BOARD OF ADJUSTMENT. (a) Airport zoning regulations must provide for a board of adjustment.

(b) If a zoning board of appeals or adjustment exists, it may be designated as the board of adjustment under this chapter.

(c) If a zoning board of appeals or adjustment does not exist or is not designated as the board of adjustment under this chapter, a board of adjustment must be appointed. The board must consist of five members to be appointed for terms of two years. The appointing

authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(d) The concurring vote of four members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of the administrative agency;

(2) decide in favor of an applicant on a matter on which the board is required to pass under an airport zoning regulation; or

(3) make a variation in an airport zoning regulation.

(e) The board shall adopt rules in accordance with the ordinance or resolution that created it.

(f) Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All hearings of the board shall be open to the public.

(g) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.033. AUTHORITY OF BOARD. The board of adjustment shall:

(1) hear and decide an appeal, as provided by Section 241.036, from an order, requirement, decision, or determination made by the administrative agency in the enforcement of an airport zoning regulation;

(2) hear and decide special exceptions to the terms of an airport zoning regulation when the regulation requires the board to do so; and

(3) hear and decide specific variances under Section 241.034.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.034. VARIANCES. (a) A person who desires to erect or increase the height of a structure, permit the growth of an object of natural growth, or otherwise use property in violation of an airport zoning regulation, may apply to the board of adjustment for a variance from the regulation.

(b) The board shall allow a variance from an airport zoning regulation if:

(1) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and

(2) the granting of the relief would:

(A) result in substantial justice being done;

(B) not be contrary to the public interest; and

(C) be in accordance with the spirit of the regulation and this chapter.

(c) The board may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.035. HAZARD MARKING AND LIGHTING. If the administrative agency or board of adjustment considers it reasonable in the circumstances and advisable to accomplish the purposes of this chapter, the agency or board may require in a permit or a variance granted under this chapter that the owner of a structure or object of natural growth allow the political subdivision, at its own expense, to install, operate, and maintain on the structure or object of natural growth any markers and lights necessary to indicate to flyers the presence of an airport hazard.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.036. APPEAL TO BOARD. (a) A decision of the administrative agency made in its administration of an airport zoning regulation may be appealed to the board of adjustment by:

(1) a person who is aggrieved by the decision;

(2) a taxpayer who is affected by the decision; or

(3) the governing body of a political subdivision or a joint airport zoning board that believes the decision is an improper

application of the airport zoning regulation.

(b) The appellant must file with the board and the administrative agency a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the administrative agency shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the administrative agency certifies in writing to the board facts supporting the agency's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by an order of the board, after notice to the administrative agency, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

(e) The board may reverse or affirm, in whole or in part, or modify the administrative agency's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative agency.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. JUDICIAL REVIEW AND OTHER REMEDIES

Sec. 241.041. JUDICIAL REVIEW OF BOARD DECISION. (a) A person who is aggrieved or a taxpayer who is affected by a decision of a board of adjustment, or the governing body of a political subdivision or a joint airport zoning board that believes a decision of a board of adjustment is illegal, may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality. The petition must be presented within 10 days after the date the decision is filed in the board's office.

(b) On the presentation of the petition, the court may grant a writ of certiorari directed to the board of adjustment to review the board's decision. Granting of the writ does not stay the proceedings

on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(c) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision that is appealed. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as provided by the writ.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.042. TRIAL BY COURT. (a) The court, in an appeal from a decision of a board of adjustment as provided by Section 241.041, shall try and determine the case de novo on the basis of the facts adduced in the trial of the case in the court. The court shall independently rule on the facts and the law as in an ordinary civil suit.

(b) The court has exclusive jurisdiction to reverse or affirm, in whole or in part, or modify the decision that is appealed and, if necessary, may order further proceedings by the board.

(c) Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.043. EFFECT OF HOLDING OF THE COURT. If the court holds that an airport zoning regulation, although generally reasonable, interferes with the use or enjoyment of a particular structure or parcel of land to such an extent that, or is so onerous in its application to a particular structure or parcel of land that, the application of the regulation constitutes a taking or deprivation of property in violation of the state or federal constitution, the holding does not affect the application of the regulation to any other structure or parcel of land.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.044. ADDITIONAL REMEDIES. (a) A political subdivision or joint airport zoning board adopting airport zoning regulations may bring an action in a court of competent jurisdiction to prevent, restrain, correct, or abate a violation of:

(1) this chapter;

(2) an airport zoning regulation adopted by the political subdivision or board; or

(3) an order or ruling made in connection with the administration or enforcement of an airport zoning regulation adopted by the political subdivision or board.

(b) The court shall grant any relief, including an injunction which may be mandatory, as may be proper under all the facts and circumstances of the case to accomplish the purposes of this chapter and the regulations adopted and orders and rulings made under it.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 241.901. CONFLICT OF AN AIRPORT HAZARD AREA ZONING REGULATION WITH ANOTHER REGULATION. (a) If an airport hazard area zoning regulation conflicts with any other regulation applicable to the same area, the more stringent limitation or requirement controls.

(b) Subsection (a) applies to any conflict with respect to the height of a structure or object of natural growth or any other matter.

(c) Subsection (a) applies to any regulation that conflicts with an airport hazard area zoning regulation whether the regulation was adopted by the political subdivision that adopted the airport zoning regulation or by another political subdivision.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.902. CONFLICT OF AN AIRPORT COMPATIBLE LAND USE ZONING REGULATION WITH ANOTHER REGULATION. (a) If an airport compatible land use zoning regulation conflicts with any other regulation applicable to the same area, the airport compatible land use zoning regulation controls.

(b) Subsection (a) applies to any conflict with respect to the use of land or any other matter.

(c) Subsection (a) applies to any regulation that conflicts with an airport compatible land use zoning regulation, whether the regulation was adopted by the political subdivision that adopted the airport compatible land use zoning regulation or by another political subdivision.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 241.903. ACQUISITION OF AIR RIGHTS OR OTHER PROPERTY. (a) A political subdivision may acquire from a person or other political subdivision an air right, aviation easement, or other estate or interest in property or in a nonconforming structure or use if:

(1) the acquisition is necessary to accomplish the purposes of this chapter;

(2) the property or nonconforming structure or use is located within the political subdivision, the political subdivision owns the airport, or the political subdivision is served by the airport; and

(3)(A) the political subdivision desires to remove, lower, or terminate the nonconforming structure or use;

(B) airport zoning regulations are not sufficient to provide necessary approach protection because of constitutional limitations; or

(C) the acquisition of a property right is more advisable than an airport zoning regulation in providing necessary approach protection.

(b) An acquisition under this section may be by purchase, grant, or condemnation in the manner provided by Subchapter B, Chapter 21, Property Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE SUBDIVISIONS IN AND OUTSIDE MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

Sec. 242.001. REGULATION OF SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION GENERALLY. (a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and a municipality that has extraterritorial

jurisdiction in that county. Subsections (b)-(g) do not apply:

(1) within a county that contains extraterritorial jurisdiction of a municipality with a population of 1.9 million or more;

(2) within a county within 50 miles of an international border, or to which Subchapter C, Chapter 232, applies; or

(3) to a tract of land subject to a development agreement under Subchapter G, Chapter 212, or other provisions of this code.

(b) For an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of the governmental entity authorized under Subsection (c) or (d) to regulate subdivisions in the area.

(c) Except as provided by Subsections (d)(3) and (4), a municipality and a county may not both regulate subdivisions and approve related permits in the extraterritorial jurisdiction of a municipality after an agreement under Subsection (d) is executed. The municipality and the county shall enter into a written agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction. For a municipality in existence on September 1, 2001, the municipality and county shall enter into a written agreement under this subsection on or before April 1, 2002. For a municipality incorporated after September 1, 2001, the municipality and county shall enter into a written agreement under this subsection not later than the 120th day after the date the municipality incorporates. On reaching an agreement, the municipality and county shall certify that the agreement complies with the requirements of this chapter. The municipality and the county shall adopt the agreement by order, ordinance, or resolution. The agreement must be amended by the municipality and the county if necessary to take into account an expansion or reduction in the extraterritorial jurisdiction of the municipality. The municipality shall notify the county of any expansion or reduction in the municipality's extraterritorial jurisdiction. Any expansion or reduction in the municipality's extraterritorial jurisdiction that affects property that is subject to a preliminary or final plat, a plat application, or an application for a related permit filed with the municipality or the county or that was previously approved under Section 212.009 or Chapter 232 does not affect any rights accrued under Chapter 245. The approval

of the plat, any permit, a plat application, or an application for a related permit remains effective as provided by Chapter 245 regardless of the change in designation as extraterritorial jurisdiction of the municipality.

(d) An agreement under Subsection (c) may grant the authority to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction of a municipality as follows:

(1) the municipality may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities;

(2) the county may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Sections 232.001-232.005, Subchapter B or C, Chapter 232, and other statutes applicable to counties;

(3) the municipality and the county may apportion the area within the extraterritorial jurisdiction of the municipality with the municipality regulating subdivision plats and approving related permits in the area assigned to the municipality and the county regulating subdivision plats and approving related permits in the area assigned to the county; or

(4) the municipality and the county may enter into an interlocal agreement that:

(A) establishes one office that is authorized to:

(i) accept plat applications for tracts of land located in the extraterritorial jurisdiction;

(ii) collect municipal and county plat application fees in a lump-sum amount; and

(iii) provide applicants one response indicating approval or denial of the plat application; and

(B) establishes a single set of consolidated and consistent regulations related to plats, subdivision construction plans, and subdivisions of land as authorized by Chapter 212, Sections 232.001-232.005, Subchapters B and C, Chapter 232, and other statutes applicable to municipalities and counties that will be enforced in the extraterritorial jurisdiction.

(e) In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate

subdivisions or approve the filing of plats, except as provided by The Interlocal Cooperation Act, Chapter 791, Government Code.

(f) If a certified agreement between a county and municipality as required by Subsection (c) is not in effect on or before the applicable date prescribed by Section 242.0015(a), the municipality and the county must enter into arbitration as provided by Section 242.0015. If the arbitrator or arbitration panel, as applicable, has not reached a decision in the 60-day period as provided by Section 242.0015, the arbitrator or arbitration panel, as applicable, shall issue an interim decision regarding the regulation of plats and subdivisions and approval of related permits in the extraterritorial jurisdiction of the municipality. The interim decision shall provide for a single set of regulations and authorize a single entity to regulate plats and subdivisions. The interim decision remains in effect only until the arbitrator or arbitration panel reaches a final decision.

(g) If a regulation or agreement adopted under this section relating to plats and subdivisions of land or subdivision development establishes a plan for future roads that conflicts with a proposal or plan for future roads adopted by a metropolitan planning organization, the proposal or plan of the metropolitan planning organization prevails.

(h) This subsection applies only to a county to which Subsections (b)-(g) do not apply, except that this subsection does not apply to a county subject to Section 242.002 or a county that has entered into an agreement under Section 242.003. For an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of both the municipality and the county. If a municipal regulation and a county regulation relating to plats and subdivisions of land conflict, the more stringent regulation prevails. However, if one governmental entity requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other governmental entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing shall issue on request of the subdivider a written certification stating that a plat is not required to be filed for that subdivision of the land. The certification must be attached to a plat required to be filed under

this subsection.

(i) Property subject to pending approval of a preliminary or final plat application filed after September 1, 2002, that is released from the extraterritorial jurisdiction of a municipality shall be subject only to county approval of the plat application and related permits and county regulation of that plat. This subsection does not apply to the simultaneous exchange of extraterritorial jurisdiction between two or more municipalities or an exchange of extraterritorial jurisdiction that is contingent on the subsequent approval by the releasing municipality.

(j) If an area subject to an agreement under Subsection (c) is removed from a municipality's extraterritorial jurisdiction, the agreement is terminated as to the area and the county is the political subdivision authorized to regulate subdivisions in the removed area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(c), 87(n), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1428, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 404, Sec. 26, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 736, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1028, Sec. 1, eff. Sept. 2001; Acts 2003, 78th Leg., ch. 523, Sec. 1, 3(a), 4, eff. June 20, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 971 (H.B. 1970), Sec. 1, eff. June 14, 2013.

Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 3, eff. September 1, 2023.

Sec. 242.0015. ARBITRATION REGARDING SUBDIVISION REGULATION AGREEMENT. (a) This section applies only to a county and a municipality that are required to make an agreement as described under Section 242.001(f). If a certified agreement between a county and a municipality with an extraterritorial jurisdiction that extends 3.5 miles or more from the corporate boundaries of the municipality is not in effect on or before January 1, 2004, the parties must arbitrate the disputed issues. If a certified agreement between a county and a municipality with an extraterritorial jurisdiction that extends less than 3.5 miles from the corporate boundaries of the

municipality is not in effect on or before January 1, 2006, the parties must arbitrate the disputed issues. A party may not refuse to participate in arbitration requested under this section. An arbitration decision under this section is binding on the parties.

(b) The county and the municipality must agree on an individual to serve as arbitrator. If the county and the municipality cannot agree on an individual to serve as arbitrator, the county and the municipality shall each select an arbitrator and the arbitrators selected shall select a third arbitrator.

(c) The third arbitrator selected under Subsection (b) presides over the arbitration panel.

(d) Not later than the 30th day after the date the county and the municipality are required to have an agreement in effect under Section 242.001(f), the arbitrator or arbitration panel, as applicable, must be selected.

(e) The authority of the arbitrator or arbitration panel is limited to issuing a decision relating only to the disputed issues between the county and the municipality regarding the authority of the county or municipality to regulate plats, subdivisions, or development plans.

(f) Each party is equally liable for the costs of an arbitration conducted under this section.

(g) The arbitrator or arbitration panel, as applicable, shall render a decision under this section not later than the 60th day after the date the arbitrator or arbitration panel is selected. If after a good faith effort the arbitrator or panel has not reached a decision as provided under this subsection, the arbitrator or panel shall continue to arbitrate the matter until the arbitrator or panel reaches a decision.

(h) A municipality and a county may not arbitrate the subdivision of an individual plat under this section.

Added by Acts 2003, 78th Leg., ch. 523, Sec. 5, eff. June 20, 2003.

Sec. 242.002. REGULATION OF SUBDIVISIONS IN POPULOUS COUNTIES OR CONTIGUOUS COUNTIES. (a) This section applies only to a county operating under Section 232.006.

(b) For an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a subdivision plat may

not be filed with the county clerk without the approval of the municipality.

(c) In the extraterritorial jurisdiction of a municipality, the municipality has exclusive authority to regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities.

(d) In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate subdivisions or approve the filing of plats, except as provided by The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 46(d), 87(o), eff. Aug. 28, 1989; Acts 2001, 77th Leg., Ch. 669, Sec. 77, eff. Sept. 1, 2001.

Sec. 242.003. AUTHORITY OF CERTAIN BORDER COUNTIES AND MUNICIPALITIES TO REGULATE SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION BY AGREEMENT. (a) This section applies only to:

(1) a county that is located on the international border and contains a municipality with a population of 500,000 or more; and

(2) a municipality that has extraterritorial jurisdiction, as defined by Section 212.001, in the county described by Subdivision (1).

(b) A county and a municipality may enter into an agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction of the municipality in a manner consistent with Section 242.001(d). The county and the municipality shall adopt the agreement by order, ordinance, or resolution.

(c) The agreement must be amended by the county and the municipality if necessary to take into account an expansion or reduction in the extraterritorial jurisdiction of the municipality. The municipality shall notify the county of any expansion or reduction in the municipality's extraterritorial jurisdiction. Any expansion or reduction in the municipality's extraterritorial jurisdiction that affects property that is subject to a preliminary or final plat, a plat application, or an application for a related permit filed with the municipality or the county or that was

previously approved under Section 212.009 or Chapter 232 does not affect any rights accrued under Chapter 245. The approval of the plat, any permit, a plat application, or an application for a related permit remains effective as provided by Chapter 245 regardless of the change in designation as extraterritorial jurisdiction of the municipality.

(d) In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate subdivisions or approve the filing of plats, except as provided by Chapter 791, Government Code.

(e) Property subject to pending approval of a preliminary or final plat is governed by Section 242.001(i).

Added by Acts 2013, 83rd Leg., R.S., Ch. 971 (H.B. 1970), Sec. 2, eff. June 14, 2013.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 151, eff. September 1, 2023.

CHAPTER 243. MUNICIPAL AND COUNTY AUTHORITY TO REGULATE SEXUALLY ORIENTED BUSINESS

Sec. 243.001. PURPOSE; EFFECT ON OTHER REGULATORY AUTHORITY. (a) The legislature finds that the unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity. The purpose of this chapter is to provide local governments a means of remedying this problem.

(b) This chapter does not diminish the authority of a local government to regulate sexually oriented businesses with regard to any matters.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989.

Sec. 243.002. DEFINITION. In this chapter, "sexually oriented business" means a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other

commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 507, Sec. 4, eff. June 13, 1991.

Sec. 243.003. AUTHORITY TO REGULATE. (a) A municipality by ordinance or a county by order of the commissioners court may adopt regulations regarding sexually oriented businesses as the municipality or county considers necessary to promote the public health, safety, or welfare.

(b) A regulation adopted by a municipality applies only inside the municipality's corporate limits.

(c) A regulation adopted by a county applies only to the parts of the county outside the corporate limits of a municipality.

(d) In adopting a regulation, a municipality that has in effect a comprehensive zoning ordinance adopted under Chapter 211 must comply with all applicable procedural requirements of that chapter if the regulation is within the scope of that chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989.

Sec. 243.0031. AUTHORITY TO REGULATE CERTAIN SEXUALLY ORIENTED PERFORMANCES. (a) In this section, "sexually oriented performance" has the meaning assigned by Section 43.28, Penal Code.

(b) Subject to Subsection (c), a municipality or county may regulate sexually oriented performances as the municipality or county considers necessary to promote the public health, safety, or welfare.

(c) A municipality or county may not authorize a sexually oriented performance:

(1) on public property; or

(2) in the presence of an individual younger than 18 years of age.

(d) Except as provided by Subsection (c), this section does not limit the authority of a municipality to license, tax, suppress,

prevent, or otherwise regulate theatrical or other exhibitions, shows, or amusements under Section 215.032.

Added by Acts 2023, 88th Leg., R.S., Ch. 931 (S.B. 12), Sec. 2, eff. September 1, 2023.

Sec. 243.004. EXEMPT BUSINESS. The following are exempt from regulation under this chapter:

(1) a bookstore, movie theater, or video store, unless that business is an adult bookstore, adult movie theater, or adult video store under Section 243.002;

(2) a business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under the license held; or

(3) a business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989.

Sec. 243.005. BUSINESS LICENSED UNDER ALCOHOLIC BEVERAGE CODE: BUSINESS HAVING COIN-OPERATED MACHINES. (a) A business is not exempt from regulation under this chapter because it holds a license or permit under the Alcoholic Beverage Code authorizing the sale or service of alcoholic beverages or because it contains one or more coin-operated machines that are subject to regulation or taxation, or both, under Chapter 8, Title 132, Revised Statutes.

(b) A regulation adopted under this chapter may not discriminate against a business on the basis of whether the business holds a license or permit under the Alcoholic Beverage Code or on the basis of whether it contains one or more coin-operated machines that are subject to regulation or taxation, or both, under Chapter 8, Title 132, Revised Statutes.

(c) This chapter does not affect the existing preemption by the state of the regulation of alcoholic beverages and the alcoholic beverage industry as provided by Section 1.06, Alcoholic Beverage Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989.

Sec. 243.006. SCOPE OF REGULATION. (a) The location of sexually oriented businesses may be:

(1) restricted to particular areas; or

(2) prohibited within a certain distance of a school, regular place of religious worship, residential neighborhood, or other specified land use the governing body of the municipality or county finds to be inconsistent with the operation of a sexually oriented business.

(b) A municipality or county may restrict the density of sexually oriented businesses.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989.

Sec. 243.007. LICENSES OR PERMITS. (a) A municipality or county may require that an owner or operator of a sexually oriented business obtain a license or other permit or renew a license or other permit on a periodic basis for the operation of a sexually oriented business. An application for a license or other permit must be made in accordance with the regulations adopted by the municipality or county.

(b) The municipal or county regulations adopted under this chapter may provide for the denial, suspension, or revocation of a license or other permit by the municipality or county.

(c) A district court has jurisdiction of a suit that arises from the denial, suspension, or revocation of a license or other permit by a municipality or county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 417, Sec. 1, eff. June 7, 1991.

Sec. 243.0075. NOTICE BY SIGN. (a) An applicant for a license or permit issued under Section 243.007 for a location not currently licensed or permitted shall, not later than the 60th day before the

date the application is filed, prominently post an outdoor sign at the location stating that a sexually oriented business is intended to be located on the premises and providing the name and business address of the applicant.

(b) A person who intends to operate a sexually oriented business in the jurisdiction of a municipality or county that does not require the owner or operator of a sexually oriented business to obtain a license or permit shall, not later than the 60th day before the date the person intends to begin operation of the business, prominently post an outdoor sign at the location stating that a sexually oriented business is intended to be located on the premises and providing the name and business address of the owner and operator.

(c) The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size. The municipality or county in which the sexually oriented business is to be located may require the sign to be both in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language.

Added by Acts 1999, 76th Leg., ch. 1109, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 648 (S.B. 1030), Sec. 1, eff. June 17, 2011.

Sec. 243.008. INSPECTION. A municipality or county may inspect a sexually oriented business to determine compliance with this chapter and regulations adopted under this chapter by the municipality or county.

Added by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989.

Sec. 243.009. FEES. A municipality or county may impose fees on applicants for a license or other permit issued under this chapter or for the renewal of the license or other permit. The fees must be based on the cost of processing the applications and investigating the applicants.

Added by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989.

Sec. 243.010. ENFORCEMENT. (a) A municipality or county may sue in the district court for an injunction to prohibit the violation of a regulation adopted under this chapter.

(b) A person commits an offense if the person violates a municipal or county regulation adopted under this chapter. An offense under this subsection is a Class A misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(p), eff. Aug. 28, 1989. Renumbered from Sec. 243.008 and amended by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989.

Sec. 243.011. EFFECT ON OTHER LAWS. This chapter does not legalize anything prohibited under the Penal Code or other state law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 243.009 by Acts 1989, 71st Leg., ch. 837, Sec. 1, eff. Aug. 28, 1989.

CHAPTER 244. LOCATION OF CERTAIN FACILITIES AND SHELTERS

SUBCHAPTER A. CORRECTIONAL OR REHABILITATION FACILITY

Sec. 244.001. DEFINITIONS. In this subchapter:

(1) "Correctional or rehabilitation facility" means a probation or parole office or a residential facility that:

(A) is operated by an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency of the state or a political subdivision of the state; and

(B) houses persons convicted of misdemeanors or felonies or children found to have engaged in delinquent conduct, regardless of whether the persons are housed in the residential facility:

(i) while serving a sentence of confinement following conviction of an offense;

(ii) as a condition of probation, parole, or mandatory supervision; or

(iii) under a court order for out-of-home placement under Title 3, Family Code, other than in a foster home operated under a contract with the juvenile board of the county in which the foster home is located or under a contract with the Texas Juvenile Justice Department.

(2) "Residential area" means:

(A) an area designated as a residential zoning district by a governing ordinance or code or an area in which the principal permitted land use is for private residences;

(B) a subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75 percent of the front footage along the block face; or

(C) a subdivision for which a plat is recorded in the real property records of the county and a majority of the lots of which are subject to deed restrictions limiting the lots to residential use.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1253, Sec. 4, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 139, eff. September 1, 2015.

Sec. 244.002. NOTICE OF PROPOSED LOCATION. (a) An agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state that proposes to construct or operate a correctional or rehabilitation facility within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship shall:

(1) provide written notice to:

(A) the commissioners court of any county with an unincorporated area that includes all or part of the land within 1,000 feet of the proposed correctional or rehabilitation facility; and

(B) the governing body of any municipality that includes within its boundaries all or part of the land within 1,000 feet of the proposed correctional or rehabilitation facility; and

(2) post the notice required by Subsection (d).

(b) An entity required to give notice under Subsection (a) shall give notice not later than the 60th day before the date the entity begins construction or operation of the correctional or rehabilitation facility, whichever date is earlier. The entity shall include in the notice:

(1) a statement of the entity's intent to construct or operate a correctional or rehabilitation facility in an area described by Subsection (a);

(2) a description of the proposed location of the facility; and

(3) a statement that this subchapter governs the procedure for notice of and consent to the facility.

(c) For purposes of this subchapter, distance is measured along the shortest straight line between the nearest property line of the correctional or rehabilitation facility and the nearest property line of the residential area, school, park, recreation area, or place of worship, as appropriate.

(d) An entity described by Subsection (a) shall prominently post an outdoor sign at the proposed location of the correctional or rehabilitation facility stating that a correctional or rehabilitation facility is intended to be located on the premises and providing the name and business address of the entity. The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size. The municipality or county in which the correctional or rehabilitation facility is to be located may require the sign to be both in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1109, Sec. 4, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1253, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 119, Sec. 1, eff. Sept. 1, 2003.

Sec. 244.003. PROXIMITY OF CORRECTIONAL OR REHABILITATION

FACILITY. (a) Unless local consent is denied under Section 244.004, an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state may operate a correctional or rehabilitation facility within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship.

(b) The governing body of a church, synagogue, or other place of worship may waive the distance requirements of Section 244.002 between a correctional or rehabilitation facility and the place of worship by filing an acknowledged written statement of the waiver in the deed records of the county in which the facility is located.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997.

Sec. 244.004. LOCAL CONSENT. (a) Local consent to the operation of a correctional or rehabilitation facility at a location within 1,000 feet of a residential area, a primary or secondary school, property designated as a park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship is granted unless, not later than the 60th day after the date on which notice is received by a commissioners court or governing body of a municipality under Section 244.002(a), the commissioners court or governing body, as appropriate, determines by resolution after a public hearing that the operation of a correctional or rehabilitation facility at the proposed location is not in the best interest of the county or municipality, as appropriate.

(b) The public hearing requirement established under Subsection (a) may be met by a public meeting held under Section 508.119 or 509.010, Government Code, if:

(1) the Texas Department of Criminal Justice receives written approval from the commissioners court of a county or governing body of a municipality allowing the public meeting to satisfy the public hearing requirement of this section; and

(2) during the public meeting, a determination is made as to whether operating the facility in the proposed location would be in the best interest of the county or municipality.

(c) If the public hearing requirement established under Subsection (a) is met in the manner described by Subsection (b), the commissioners court of a county or governing body of a municipality may adopt a resolution under Subsection (a) without holding a public hearing under that subsection. The commissioners court or governing body, as appropriate, retains the discretion to hold a separate public hearing under Subsection (a) as the commissioners court or governing body considers necessary or appropriate.

(d) A commissioners court or governing body of a municipality may rescind a resolution adopted under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 119, Sec. 2, eff. Sept. 1, 2003.

Sec. 244.006. EXEMPTIONS. This subchapter does not apply to the operation of a correctional or rehabilitation facility at a location subject to this subchapter if:

(1) on September 1, 1997, the correctional or rehabilitation facility was in operation, under construction, under contract for operation or construction, or planned for construction at the location on land owned or leased by an agency or political subdivision of the state and designated for use as a correctional or rehabilitation facility;

(2) the correctional or rehabilitation facility was in operation or under construction before the establishment of a residential area the location of which makes the facility subject to this subchapter;

(3) the correctional or rehabilitation facility is a temporary correctional or rehabilitation facility that will be operated at the location for less than one year;

(4) the correctional or rehabilitation facility is required to obtain a special use permit or a conditional use permit from the municipality in which the facility is located before beginning operation;

(5) the correctional or rehabilitation facility is an expansion of a facility operated by the correctional institutions division of the Texas Department of Criminal Justice for the imprisonment of individuals convicted of felonies other than state jail felonies or by the Texas Juvenile Justice Department;

(6) the correctional or rehabilitation facility is a county jail or a pre-adjudication or post-adjudication juvenile detention facility operated by a county or county juvenile board;

(7) the facility is:

(A) a juvenile probation office located at, and operated in conjunction with, a juvenile justice alternative education center; and

(B) used exclusively by students attending the juvenile justice alternative education center;

(8) the facility is a public or private institution of higher education or vocational training to which admission is open to the general public;

(9) the facility is operated primarily as a treatment facility for juveniles under contract with the Health and Human Services Commission, the Department of State Health Services, a local mental health authority, or a local intellectual and developmental disability authority;

(10) the facility is operated as a juvenile justice alternative education program;

(11) the facility:

(A) is not operated primarily as a correctional or rehabilitation facility; and

(B) only houses persons or children described by Section 244.001(1)(B) for a purpose related to treatment or education; or

(12) the facility is a probation or parole office located in a commercial use area.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1253, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.129, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 140, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 10.01, eff. September 1, 2023.

Sec. 244.007. CONFLICT WITH OTHER LAW. To the extent of any conflict between this subchapter and Sections 508.119 and 509.010, Government Code, this subchapter prevails.

Added by Acts 1997, 75th Leg., ch. 1086, Sec. 46, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1253, Sec. 6, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 119, Sec. 3, eff. Sept. 1, 2003.

SUBCHAPTER B. SHELTER FOR HOMELESS INDIVIDUALS

Sec. 244.021. DEFINITION. In this subchapter, "shelter for homeless individuals" means a supervised private facility that provides temporary living accommodations for homeless individuals.

Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.022. APPLICATION OF SUBCHAPTER. This subchapter applies only to construction or operation of a shelter for homeless individuals that is located or proposed to be located within the boundaries of a municipality with a population of 1.6 million or more.

Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.023. RESTRICTION. Unless municipal consent is granted under Section 244.025, a person may not construct or operate a shelter for homeless individuals within 1,000 feet of another shelter for homeless individuals or a primary or secondary school.

Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.024. NOTICE. (a) A person who intends to construct or operate a shelter for homeless individuals subject to Section 244.023 shall:

(1) post notice of the proposed location of the shelter at that location; and

(2) provide notice of the proposed location of the shelter to the governing body of the municipality within the boundaries of

which the shelter is proposed to be located.

(b) The person shall post and provide the notice required by Subsection (a) before the 61st day before the date the person begins construction or operation of the shelter for homeless individuals, whichever date is earlier.

Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.025. MUNICIPAL CONSENT. (a) Municipal consent to the construction or operation of a shelter for homeless individuals subject to Section 244.023 is considered granted unless, before the 61st day after the date notice is received by the governing body of the municipality under Section 244.024(a)(2), the governing body determines by resolution after a public hearing that the construction or operation of a shelter at the proposed location is not in the best interest of the municipality.

(b) The governing body of the municipality may rescind a resolution adopted under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

Sec. 244.026. DISTANCE MEASUREMENT. For purposes of this subchapter, distance is measured along the shortest straight line between the nearest property line of the shelter for homeless individuals and the nearest property line of another shelter for homeless individuals or a primary or secondary school, as appropriate.

Added by Acts 1999, 76th Leg., ch. 1253, Sec. 3, eff. Sept. 1, 1999.

CHAPTER 245. ISSUANCE OF LOCAL PERMITS

Sec. 245.001. DEFINITIONS. In this chapter:

(1) "Permit" means a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform

an action or initiate, continue, or complete a project for which the permit is sought.

(2) "Political subdivision" means a political subdivision of the state, including a county, a school district, or a municipality.

(3) "Project" means an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.

(4) "Regulatory agency" means the governing body of, or a bureau, department, division, board, commission, or other agency of, a political subdivision acting in its capacity of processing, approving, or issuing a permit.

Added by Acts 1999, 76th Leg., ch. 73, Sec. 2, eff. May 11, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 6 (S.B. 848), Sec. 1, eff. April 27, 2005.

Sec. 245.002. UNIFORMITY OF REQUIREMENTS. (a) Each regulatory agency shall consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time:

(1) the original application for the permit is filed for review for any purpose, including review for administrative completeness; or

(2) a plan for development of real property or plat application is filed with a regulatory agency.

(a-1) Rights to which a permit applicant is entitled under this chapter accrue on the filing of an original application or plan for development or plat application that gives the regulatory agency fair notice of the project and the nature of the permit sought. An application or plan is considered filed on the date the applicant delivers the application or plan to the regulatory agency or deposits the application or plan with the United States Postal Service by certified mail addressed to the regulatory agency. A certified mail receipt obtained by the applicant at the time of deposit is prima facie evidence of the date the application or plan was deposited with the United States Postal Service.

(b) If a series of permits is required for a project, the orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time the original application for the first permit in that series is filed shall be the sole basis for consideration of all subsequent permits required for the completion of the project. All permits required for the project are considered to be a single series of permits. Preliminary plans and related subdivision plats, site plans, and all other development permits for land covered by the preliminary plans or subdivision plats are considered collectively to be one series of permits for a project.

(c) After an application for a project is filed, a regulatory agency may not shorten the duration of any permit required for the project.

(d) Notwithstanding any provision of this chapter to the contrary, a permit holder may take advantage of recorded subdivision plat notes, recorded restrictive covenants required by a regulatory agency, or a change to the laws, rules, regulations, or ordinances of a regulatory agency that enhance or protect the project, including changes that lengthen the effective life of the permit after the date the application for the permit was made, without forfeiting any rights under this chapter.

(e) A regulatory agency may provide that a permit application expires on or after the 45th day after the date the application is filed if:

(1) the applicant fails to provide documents or other information necessary to comply with the agency's technical requirements relating to the form and content of the permit application;

(2) the agency provides to the applicant not later than the 10th business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and

(3) the applicant fails to provide the specified documents or other information within the time provided in the notice.

(f) This chapter does not prohibit a regulatory agency from requiring compliance with technical requirements relating to the form and content of an application in effect at the time the application was filed even though the application is filed after the date an

applicant accrues rights under Subsection (a-1).

(g) Notwithstanding Section 245.003, the change in law made to Subsection (a) and the addition of Subsections (a-1), (e), and (f) by S.B. No. 848, Acts of the 79th Legislature, Regular Session, 2005, apply only to a project commenced on or after the effective date of that Act.

Added by Acts 1999, 76th Leg., ch. 73, Sec. 2, eff. May 11, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 6 (S.B. 848), Sec. 2, eff. April 27, 2005.

Sec. 245.003. APPLICABILITY OF CHAPTER. This chapter applies only to a project in progress on or commenced after September 1, 1997. For purposes of this chapter a project was in progress on September 1, 1997, if:

(1) before September 1, 1997:

(A) a regulatory agency approved or issued one or more permits for the project; or

(B) an application for a permit for the project was filed with a regulatory agency; and

(2) on or after September 1, 1997, a regulatory agency enacts, enforces, or otherwise imposes:

(A) an order, regulation, ordinance, or rule that in effect retroactively changes the duration of a permit for the project;

(B) a deadline for obtaining a permit required to continue or complete the project that was not enforced or did not apply to the project before September 1, 1997; or

(C) any requirement for the project that was not applicable to or enforced on the project before September 1, 1997.

Added by Acts 1999, 76th Leg., ch. 73, Sec. 2, eff. May 11, 1999.

Sec. 245.004. EXEMPTIONS. This chapter does not apply to:

(1) a permit that is at least two years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; or

(B) local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons;

(2) municipal zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by a municipality;

(3) regulations that specifically control only the use of land in a municipality that does not have zoning and that do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, or building size;

(4) regulations for sexually oriented businesses;

(5) municipal or county ordinances, rules, regulations, or other requirements affecting colonias;

(6) fees imposed in conjunction with development permits;

(7) regulations for annexation that do not affect landscaping or tree preservation or open space or park dedication;

(8) regulations for utility connections;

(9) regulations to prevent imminent destruction of property or injury to persons from flooding that are effective only within a flood plain established by a federal flood control program and enacted to prevent the flooding of buildings intended for public occupancy;

(10) construction standards for public works located on public lands or easements; or

(11) regulations to prevent the imminent destruction of property or injury to persons if the regulations do not:

(A) affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project; or

(B) change development permitted by a restrictive covenant required by a municipality.

Added by Acts 1999, 76th Leg., ch. 73, Sec. 2, eff. May 11, 1999. Amended by Acts 2003, 78th Leg., ch. 646, Sec. 1.

Amended by:

Acts 2005, 79th Leg., Ch. 31 (S.B. 574), Sec. 1, eff. September 1, 2005.

Sec. 245.005. DORMANT PROJECTS. (a) After the first anniversary of the effective date of this chapter, a regulatory agency may enact an ordinance, rule, or regulation that places an expiration date on a permit if as of the first anniversary of the effective date of this chapter: (i) the permit does not have an expiration date; and (ii) no progress has been made towards completion of the project. Any ordinance, rule, or regulation enacted pursuant to this subsection shall place an expiration date of no earlier than the fifth anniversary of the effective date of this chapter.

(b) A regulatory agency may enact an ordinance, rule, or regulation that places an expiration date of not less than two years on an individual permit if no progress has been made towards completion of the project. Notwithstanding any other provision of this chapter, any ordinance, rule, or regulation enacted pursuant to this section shall place an expiration date on a project of no earlier than the fifth anniversary of the date the first permit application was filed for the project if no progress has been made towards completion of the project. Nothing in this subsection shall be deemed to affect the timing of a permit issued solely under the authority of Chapter 366, Health and Safety Code, by the Texas Commission on Environmental Quality or its authorized agent.

(c) Progress towards completion of the project shall include any one of the following:

(1) an application for a final plat or plan is submitted to a regulatory agency;

(2) a good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;

(3) costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or

(5) utility connection fees or impact fees for the project have been paid to a regulatory agency.

Added by Acts 1999, 76th Leg., ch. 73, Sec. 2, eff. May 11, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 31 (S.B. 574), Sec. 1, eff. September 1, 2005.

Sec. 245.006. ENFORCEMENT OF CHAPTER. (a) This chapter may be enforced only through mandamus or declaratory or injunctive relief.

(b) A political subdivision's immunity from suit is waived in regard to an action under this chapter.

(c) A court may award court costs and reasonable and necessary attorney's fees to the prevailing party in an action under this chapter.

Added by Acts 1999, 76th Leg., ch. 73, Sec. 2, eff. May 11, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 31 (S.B. 574), Sec. 1, eff. September 1, 2005.
Acts 2017, 85th Leg., R.S., Ch. 264 (H.B. 1704), Sec. 1, eff. May 29, 2017.

Sec. 245.007. CONSTRUCTION AND RENOVATION WORK ON COUNTY-OWNED BUILDINGS AND FACILITIES IN CERTAIN COUNTIES. (a) This section applies only to a building or facility that is owned by a county with a population of one million or more and is located within the boundaries of another political subdivision.

(b) A political subdivision may not require a county to notify the political subdivision or obtain a building permit for any new construction or any renovation of a building or facility owned by the county if the construction or renovation work is supervised and inspected by an engineer or architect licensed in this state.

(c) This section does not exempt a county from complying with the building standards of the political subdivision during the construction or renovation of the building or facility.

Added by Acts 2005, 79th Leg., Ch. 532 (H.B. 960), Sec. 1, eff. June 17, 2005.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 523 (H.B. 3234), Sec. 1, eff. September 1, 2025.

CHAPTER 246. CONSTRUCTION OF CERTAIN TELECOMMUNICATIONS FACILITIES

Sec. 246.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Public Utility Commission of Texas.

(2) "Critical facility" means a central office that contains:

(A) a switching unit for a telecommunications system that provides service to the general public; and

(B) equipment and operating arrangements necessary for terminating and interconnecting:

(i) customer lines and trunks; or

(ii) trunks.

(3) "Impervious lot coverage regulation" means an ordinance, regulation, rule, or other enactment by a county, municipality, or other authority that limits the development of real property based on the amount of impervious lot coverage to be constructed. The term does not include a flood control regulation.

(4) "Regulating authority" means a county, municipality, or other political subdivision of this state that has adopted an impervious lot coverage regulation or a sedimentation, retention, or erosion regulation by ordinance, order, resolution, rule, or other enactment.

(5) "Sedimentation, retention, or erosion regulation" means an ordinance, regulation, rule, or other enactment by a county, municipality, or other authority that limits or regulates the development of real property based on the development's effect on water quality resulting from sedimentation, retention, or erosion. The term does not include a:

(A) flood control regulation; or

(B) requirement for silt fences, vegetative cover, or other similar requirement.

(6) "Telecommunications utility" has the meaning assigned by Section 51.002, Utilities Code.

Added by Acts 2001, 77th Leg., ch. 210, Sec. 1, eff. Sept. 1, 2001.

Sec. 246.002. APPLICABILITY. This chapter applies only to a critical facility that:

(1) existed on April 1, 2001; and

(2) is being expanded to provide space and facilities for competing telecommunications utilities because of requirements in:

(A) the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended; or

(B) Subchapters G and H, Chapter 60, Utilities Code.

Added by Acts 2001, 77th Leg., ch. 210, Sec. 1, eff. Sept. 1, 2001.

Sec. 246.003. REQUEST PROCESS. (a) A regulating authority that receives a written request by a telecommunications utility to expand a critical facility on real property owned, leased, or occupied by the telecommunications utility in an area governed by impervious lot coverage regulation or sedimentation, retention, or erosion regulation shall approve or deny the request not later than the 60th day after the date the request is received.

(b) The regulating authority shall approve the request unless the regulating authority finds, after a hearing, that:

(1) additional, suitable vacant land contiguous with the proposed building site that is sufficient to satisfy the impervious lot coverage regulation or sedimentation, retention, or erosion regulation is not available, except:

(A) through the use of condemnation; or

(B) at a price that exceeds the average fair market value of vacant land within a one-mile radius of the property that is the subject of the request under Subsection (a); or

(2) the telecommunications utility did not provide an affidavit containing the statement described in Subdivision (1).

(c) The regulating authority shall provide written notice of a denial. The notice must specify the findings on which the authority relied in denying the request.

(d) If a regulating authority does not make a decision before the deadline prescribed by Subsection (a):

(1) the request is approved; and

(2) the regulating authority may not apply the authority's impervious lot coverage regulations or sedimentation, retention, or erosion regulations to the expansion that is the subject of the request under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 210, Sec. 1, eff. Sept. 1, 2001.

Sec. 246.004. COMMISSION JURISDICTION. The commission has jurisdiction to enforce this chapter and to ensure that legal requirements are enforced in a competitively neutral, nondiscriminatory, and reasonable manner.

Added by Acts 2001, 77th Leg., ch. 210, Sec. 1, eff. Sept. 1, 2001.

CHAPTER 247. THIRD-PARTY REVIEW OF DEVELOPMENT DOCUMENTS AND INSPECTION OF IMPROVEMENTS

Sec. 247.001. DEFINITIONS. In this chapter:

(1) "Development document" means a document, including an application for a plat, plan, or development permit, related to the development of or improvement to land that is required by law, ordinance, rule, or other measure to be approved by a regulatory authority in order for a person to initiate, engage in, or complete the development or improvement.

(2) "Development inspection" means the inspection of an improvement to land required by a regulatory authority as part of a project to develop the land or construct or improve an improvement to the land.

(3) "Development permit" means a permit required by a regulatory authority to develop land or construct or improve an improvement to land.

(4) "Plan" has the meaning assigned by Section 212.001.

(5) "Plat" has the meaning assigned by Section 212.001 except that the term includes a development plat under Subchapter B, Chapter 212.

(6) "Regulatory authority" means the governing body of a political subdivision, or a department, board, commission, or other entity of the political subdivision, responsible for processing or approving a development document or conducting a development inspection.

Added by Acts 2023, 88th Leg., R.S., Ch. 654 (H.B. 14), Sec. 1, eff. September 1, 2023.

Sec. 247.002. THIRD-PARTY REVIEW OR INSPECTION REQUIRED. (a) If a regulatory authority does not approve, conditionally approve, or disapprove a development document by the 15th day after the date prescribed by a provision of this code for the approval, conditional approval, or disapproval of the document, any required review of the document may be performed by a person:

(1) other than:

(A) the applicant; or

(B) a person whose work is the subject of the application; and

(2) who is:

(A) employed by the regulatory authority to review development documents;

(B) employed by another political subdivision to review development documents, if the regulatory authority has approved the person to review development documents; or

(C) an engineer licensed under Chapter 1001, Occupations Code.

(b) If a regulatory authority does not conduct a required development inspection by the 15th day after the date prescribed by a provision of this code for conducting the inspection, the inspection may be conducted by a person:

(1) other than:

(A) the owner of the land or improvement to the land that is the subject of the inspection; or

(B) a person whose work is the subject of the inspection; and

(2) who is:

(A) certified to inspect buildings by the International Code Council;

(B) employed by the regulatory authority as a building inspector;

(C) employed by another political subdivision as a building inspector, if the regulatory authority has approved the person to perform inspections; or

(D) an engineer licensed under Chapter 1001,

Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 654 (H.B. 14), Sec. 1, eff. September 1, 2023.

Sec. 247.0025. THIRD-PARTY REVIEW OR INSPECTION FOR HOME BACKUP POWER INSTALLATIONS. (a) In this section, "home backup power installation" means an electric generating facility, an energy storage facility, a standby system, and any associated infrastructure and equipment intended to provide electrical power to a one- or two-family dwelling, regardless of whether the facility or system is capable of participating in a wholesale electric market, that is connected at 600 volts or less.

(b) This section does not limit the authority of:

(1) an electric utility to implement the utility's tariff; or

(2) an electric cooperative or a municipally owned utility to enforce interconnection and service policies.

(c) Notwithstanding Section 247.002:

(1) the following persons, other than a person described by Section 247.002(a)(1), may review a development document required by a regulatory authority to install a home backup power installation without having to submit the document to the authority for review:

(A) a person authorized to review a development document under Section 247.002(a);

(B) an electrical inspector as defined in Section 1305.002, Occupations Code; or

(C) a master electrician described by Section 1305.153, Occupations Code, who is licensed under Subchapter D, Chapter 1305 of that code; and

(2) the following persons, other than a person described by Section 247.002(b)(1), may conduct a development inspection required by a regulatory authority to install a home backup power installation without having to request the inspection from the authority:

(A) a person authorized to conduct a development inspection under Section 247.002(b);

(B) an electrical inspector as defined in Section 1305.002, Occupations Code; or

(C) a master electrician described by Section 1305.153,

Occupations Code, who is licensed under Subchapter D, Chapter 1305 of that code.

(d) A regulatory authority shall:

(1) post on the authority's Internet website each law, rule, standard, fee schedule, and other document necessary for a person to review a development document or conduct a development inspection under this section; or

(2) provide on request an electronic copy of the information described by Subdivision (1) not later than the second business day after the date the regulatory authority receives the request.

(e) A person who reviews a development document or conducts a development inspection under this section may:

(1) use software designed to automate the required review without that person performing additional manual review; and

(2) rely on the accuracy and completeness of the information provided by a regulatory authority under Subsection (d).

(f) If a regulatory authority has not posted on the authority's Internet website or provided upon request information as required under Subsection (d), a person reviewing a development document or conducting a development inspection of a home backup power installation under this section may use:

(1) the applicable building code standards under Section 214.212 for a dwelling located in a municipality; or

(2) the applicable building code standards under Section 233.153 for a dwelling located in the unincorporated area of a county.

(g) A regulatory authority that has not posted or provided a fee schedule as required by Subsection (d) may not charge a fee for issuance of an approval, permit, or certification for a home backup power installation under this section.

(h) A person who reviews a development document or conducts a development inspection shall provide to the regulatory authority a copy of any development document or inspection-related note or report the person creates as part of the review or inspection not later than the date the person provides notice to the regulatory authority under Section 247.004(a)(2).

(i) A regulatory authority shall issue each approval, permit, or certification applicable to a review of a development document or development inspection conducted under this section not later than

the third business day after the date the authority receives the notice prescribed by Section 247.004(a) that approves the document or inspection.

(j) A person may begin construction of a home backup power installation on submission of the notice prescribed by Section 247.004(a) that approves the development document.

(k) A regulatory authority is not liable for a review or inspection conducted by a person under this section.

(l) A person reviewing a development document or conducting a development inspection under this section is liable for damages resulting from the person's negligent acts or omissions in conducting the review or inspection.

Added by Acts 2025, 89th Leg., R.S., Ch. 804 (S.B. 1202), Sec. 1, eff. September 1, 2025.

Sec. 247.003. ADDITIONAL FEE PROHIBITED. A regulatory authority may not impose a fee related to the review of a development document or the inspection of an improvement conducted under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 654 (H.B. 14), Sec. 1, eff. September 1, 2023.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 804 (S.B. 1202), Sec. 2, eff. September 1, 2025.

Sec. 247.004. THIRD-PARTY REQUIREMENTS. (a) A person who reviews a development document or conducts a development inspection under this chapter shall:

(1) review the document, conduct the inspection, and take all other related actions in accordance with all applicable provisions of law; and

(2) not later than the 15th day after the date the person completes the review or inspection, provide notice to the regulatory authority of the results of the review or inspection.

(b) A regulatory authority may prescribe a reasonable format for the notice required under Subsection (a). If the regulatory authority has not prescribed a format, a person who reviews a

development document or conducts a development inspection under this chapter may provide notice by e-mail to the e-mail address of the regulatory authority.

(c) The format prescribed by a regulatory authority under Subsection (b) may not limit a person who reviews a development document or conducts a development inspection under this chapter from using software designed to automate the review or approval process without that person performing additional manual review.

Added by Acts 2023, 88th Leg., R.S., Ch. 654 (H.B. 14), Sec. 1, eff. September 1, 2023.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 804 (S.B. 1202), Sec. 3, eff. September 1, 2025.

Sec. 247.005. WAIVER PROHIBITED. A regulatory authority may not request or require an applicant to waive a deadline or other procedure under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 654 (H.B. 14), Sec. 1, eff. September 1, 2023.

Sec. 247.006. APPEAL. (a) A person may appeal to the governing body of a political subdivision:

(1) a decision to conditionally approve or disapprove a development document made by the regulatory authority for the political subdivision or a person authorized by Section 247.002(a) to perform the review of the document; or

(2) a decision regarding a development inspection conducted by the regulatory authority or a person authorized by Section 247.002(b) to perform the inspection.

(b) A person must file an appeal under this section not later than the 15th day after the date the decision being appealed is made.

(c) If the governing body hearing the appeal does not affirm the decision being appealed by a majority vote on or before the 60th day after the date the appeal is filed:

(1) the development document that is the subject of the appeal is considered approved; or

(2) the development inspection that is the subject of the

appeal is waived.

Added by Acts 2023, 88th Leg., R.S., Ch. 654 (H.B. 14), Sec. 1, eff. September 1, 2023.

CHAPTER 248. REGULATION OF ENERGY SOURCES AND ENGINES

Sec. 248.001. DEFINITIONS. In this chapter:

(1) "Energy source" means any fuel or power source used to power an engine.

(2) "Engine" means a machine for converting an energy source into mechanical force and motion, including a generator or an internal combustion engine.

(3) "Political subdivision" includes a county, municipality, special district, school district, junior college district, or housing authority.

(4) "Retail service station" has the meaning assigned by Section 753.001, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 19 (S.B. 1017), Sec. 1, eff. September 1, 2023.
Redesignated from Local Government Code, Chapter 247 by Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 22.001(26), eff. September 1, 2025.

Sec. 248.002. RESTRICTION ON REGULATION OF ENERGY SOURCES. (a) A political subdivision may not adopt or enforce an ordinance, order, regulation, or similar measure that limits access to or use of an energy source or that results in the effective prohibition of infrastructure that is necessary to provide access to a specific energy source, including a wholesaler, retailer, energy producer, or related infrastructure, including a retail service station.

(b) This section does not limit the authority of a political subdivision to adopt or enforce an ordinance, order, regulation, or similar measure relating to an energy source, or infrastructure that is necessary to provide access to a specific energy source, that:

(1) provides siting requirements, including siting requirements involving certain geographic areas;

(2) does not effectively prohibit the operation of an energy source or infrastructure that is necessary to provide access

to a specific energy source; and

(3) is not preempted by state or federal law.

Added by Acts 2023, 88th Leg., R.S., Ch. 19 (S.B. 1017), Sec. 1, eff. September 1, 2023.
Redesignated from Local Government Code, Chapter 247 by Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 22.001(26), eff. September 1, 2025.

Sec. 248.003. RESTRICTION ON REGULATION OF ENGINES. (a) A political subdivision may not adopt or enforce an ordinance, order, regulation, or similar measure that directly prohibits or restricts the use, sale, or lease of an engine based on its fuel source.

(b) This section does not limit the authority of a political subdivision to adopt or enforce an ordinance, order, regulation, or similar measure not preempted by state or federal law that:

(1) does not effectively prohibit or restrict the use, sale, or lease of the engine;

(2) implements an agreement between the political subdivision and the Texas Commission on Environmental Quality to regulate motor vehicle idling under Section 382.019, Health and Safety Code; or

(3) only affects an engine owned or operated by the political subdivision and is included in the state implementation plan or otherwise necessary for compliance with the federal Clean Air Act (42 U.S.C. Section 7401 et seq.).

(c) This section does not limit the authority of a political subdivision to adopt an ordinance, order, regulation, resolution, policy, or other similar measure to encourage, promote, or provide rebates for engines and fuel sources from alternative sources such as electricity, hydrogen, gas, or biofuels and that does not directly or effectively ban, restrict, or prohibit the use, sale, or lease of an engine based on the engine's fuel source.

(d) Section 81.0523, Natural Resources Code, prevails to the extent of a conflict with this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 19 (S.B. 1017), Sec. 1, eff. September 1, 2023.
Redesignated from Local Government Code, Chapter 247 by Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 22.001(26), eff. September

1, 2025.

CHAPTER 250. MISCELLANEOUS REGULATORY AUTHORITY

Sec. 250.001. RESTRICTION ON REGULATION OF SPORT SHOOTING RANGES. (a) In this section:

(1) "Association" or "private club" means an association or private club that operates a sport shooting range at which not fewer than 20 different individuals discharge firearms each calendar year.

(2) "Sport shooting range" means a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting.

(b) A governmental official may not seek a civil or criminal penalty against a sport shooting range or its owner or operator based on the violation of a municipal or county ordinance, order, or rule regulating noise:

(1) if the sport shooting range is in compliance with the applicable ordinance, order, or rule; or

(2) if no applicable noise ordinance, order, or rule exists.

(c) A person may not bring a nuisance or similar cause of action against a sport shooting range based on noise:

(1) if the sport shooting range is in compliance with all applicable municipal and county ordinances, orders, and rules regulating noise; or

(2) if no applicable noise ordinance, order, or rule exists.

Added by Acts 1991, 72nd Leg., ch. 145, Sec. 1, eff. Aug. 26, 1991.
Amended by Acts 2001, 77th Leg., ch. 1050, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 624 (S.B. 766), Sec. 7, eff. September 1, 2011.

Sec. 250.002. REGULATION OF AMATEUR RADIO ANTENNAS. (a) A municipality or county may not enact or enforce an ordinance or order that does not comply with the ruling of the Federal Communications

Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.

(b) If a municipality or county adopts an ordinance or order involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance or order must:

(1) reasonably accommodate amateur communications; and

(2) represent the minimal practicable regulation to accomplish the municipality's or county's legitimate purpose.

(c) This section does not prohibit a municipality or county from taking any action to protect or preserve a historic, historical, or architectural district that is established by the municipality or county or under state or federal law.

Added by Acts 1999, 76th Leg., ch. 68, Sec. 1, eff. May 10, 1999.

Sec. 250.003. PERSONAL LIABILITY OF NONOWNERS. (a) An individual who is an employee of the owner of real property for which a citation for a violation of a county or municipal rule or ordinance is issued, or of a company that manages the property on behalf of the property owner, is not personally liable for criminal or civil penalties resulting from the violation if, not later than the fifth calendar day after the date the citation is issued, the individual provides the property owner's name, current street address, and telephone number to the enforcement official who issues the citation or the official's superior.

(b) This section applies only to a citation for a violation connected with real property for which a political subdivision has issued a certificate of occupancy or a certificate of completion with respect to the construction of improvements on the property. This section does not prohibit a municipality or county from issuing to an employee or contractor of the property owner or management company a citation relating to the construction or development of the property.

Added by Acts 2005, 79th Leg., Ch. 1344 (S.B. 399), Sec. 2, eff. June 18, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 841 (S.B. 1945), Sec. 1, eff. January 1, 2010.

Sec. 250.004. AGENT FOR SERVICE; NOTICE OF CITATION. (a) The employee of the owner or management company to whom a citation described by Section 250.003 is issued is considered the owner's agent for accepting service of the citation for the violation of the county or municipal rule or ordinance. Service of the citation on the agent has the same legal effect as service on the owner for the purpose of fines against the owner or the property, including a warrant or capias.

(b) The county or municipality issuing the citation shall mail notice of the citation to the property owner at the address most recently provided to the county or municipality by the property owner or by the employee of the owner or management company under Section 250.003(a). This subsection does not require a county or municipality to mail notice using a service that provides delivery confirmation.

Added by Acts 2005, 79th Leg., Ch. 1344 (S.B. 399), Sec. 2, eff. June 18, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 841 (S.B. 1945), Sec. 2, eff. January 1, 2010.

Sec. 250.005. OTHER REMEDIES UNAFFECTED. Sections 250.003 and 250.004 do not limit the availability of remedies against a real property owner or real property otherwise provided by law, including fines, closure, injunction, and mandamus.

Added by Acts 2005, 79th Leg., Ch. 1344 (S.B. 399), Sec. 2, eff. June 18, 2005.

Sec. 250.006. GRAFFITI REMOVAL. (a) Except as provided by Subsection (h), a county by order or a municipality by ordinance may require the owner of property within the jurisdiction of the county or municipality to remove graffiti from the owner's property on receipt of notice from the county or municipality.

(b) The order or ordinance must provide that a county or municipality may not give notice to a property owner under Subsection

(a) unless:

(1) the county or municipality has offered to remove the graffiti from the owner's property free of charge; and

(2) the property owner has refused the offer.

(c) The order or ordinance must require a property owner to remove the graffiti on or before the 15th day after the date the property owner receives notice under Subsection (a). If the property owner fails to remove the graffiti on or before the 15th day after the date of receipt of the notice, the county or municipality may remove the graffiti and charge the expenses of removal to the property owner in accordance with a fee schedule adopted by the county or municipality.

(d) The notice required by Subsection (a) must be given:

(1) personally to the owner in writing;

(2) by letter sent by certified mail, addressed to the property owner at the property owner's address as contained in the records of the appraisal district in which the property is located; or

(3) if service cannot be obtained under Subdivision (1) or (2):

(A) by publication at least once in a newspaper of general circulation in the county or municipality;

(B) by posting the notice on or near the front door of each building on the property to which the notice relates; or

(C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates.

(e) The county or municipality may assess expenses incurred under Subsection (c) against the property on which the work is performed to remove the graffiti.

(f) To obtain a lien against the property for expenses incurred under Subsection (c), the governing body of the county or municipality must file a statement of expenses with the county clerk. The statement of expenses must contain:

(1) the name of the property owner, if known;

(2) the legal description of the property; and

(3) the amount of expenses incurred under Subsection (c).

(g) A lien described by Subsection (f) attaches to the property on the date on which the statement of expenses is filed in the real property records of the county in which the property is located and

is subordinate to:

(1) any previously recorded lien; and

(2) the rights of a purchaser or lender for value who acquires an interest in the property subject to the lien before the statement of expenses is filed as described by Subsection (f).

(h) An order or ordinance described by this section must include an exception from the requirement that an owner of property remove graffiti from the owner's property if:

(1) the graffiti is located on transportation infrastructure; and

(2) the removal of the graffiti would create a hazard for the person performing the removal.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 29, eff. September 1, 2009.

Sec. 250.007. REGULATION OF RENTAL OR LEASING OF HOUSING ACCOMMODATIONS. (a) Except as provided by this section, a municipality or county may not adopt or enforce an ordinance or regulation that prohibits an owner, lessee, sublessee, assignee, managing agent, or other person having the right to lease, sublease, or rent a housing accommodation from refusing to lease or rent the housing accommodation to a person because the person's lawful source of income to pay rent includes funding from a federal housing assistance program.

(b) This section does not affect an ordinance or regulation that prohibits the refusal to lease or rent a housing accommodation to a military veteran because of the veteran's lawful source of income to pay rent.

(c) This section does not affect any authority of a municipality or county or decree to create or implement an incentive, contract commitment, density bonus, or other voluntary program designed to encourage the acceptance of a housing voucher directly or indirectly funded by the federal government, including a federal housing choice voucher.

Added by Acts 2015, 84th Leg., R.S., Ch. 1140 (S.B. 267), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 12.002,

eff. September 1, 2017.

Sec. 250.008. LINKAGE FEES PROHIBITED. (a) A political subdivision may not adopt or enforce a charter provision, ordinance, order, or other regulation that imposes, directly or indirectly, a fee on new construction for the purposes of offsetting the cost or rent of any unit of residential housing.

(b) For purposes of this section:

(1) a fee is imposed indirectly on new construction if a charter provision, ordinance, order, or other regulation allows acceptance by the political subdivision of a fee on new construction; and

(2) new construction includes zoning, subdivisions, site plans, and building permits associated with new construction.

(c) This section does not apply to:

(1) an affordable housing and property tax abatement program:

(A) adopted under Chapter 378 or Chapter 312, Tax Code, by a municipality with a population of more than 700,000; and

(B) for which eligibility is maintained as required under Chapter 312, Tax Code, as applicable; or

(2) an ordinance, order, or other similar measure that permits the voluntary payment of a fee in lieu of other consideration to a political subdivision in connection with the issuance of a zoning waiver related to new construction that allows a multifamily residential or commercial structure to exceed height or square footage limitations.

(d) A charter provision, ordinance, order, or other regulation adopted by a political subdivision that conflicts with this section is null and void.

Added by Acts 2017, 85th Leg., R.S., Ch. 256 (H.B. 1449), Sec. 2, eff. May 29, 2017.

Sec. 250.009. CERTAIN SALES OF BEVERAGES BY CHILDREN. Notwithstanding any other law, a municipality, county, or other local public health authority may not adopt or enforce an ordinance, order, or rule that prohibits or regulates, including by requiring a

license, permit, or fee, the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property or in a public park by an individual younger than 18 years of age.

Added by Acts 2019, 86th Leg., R.S., Ch. 1027 (H.B. 234), Sec. 2, eff. September 1, 2019.

Sec. 250.010. BATTERY-CHARGED FENCES. (a) In this section, "alarm system" means an alarm system for which a permit may be issued under Subchapter F or F-1, Chapter 214, or Subchapter D, Chapter 233.

(b) This section applies only to a battery-charged fence that:

(1) interfaces with an alarm system in a manner that enables the fence to cause the connected alarm system to transmit a signal intended to summon law enforcement in response to a burglary;

(2) is located on property that is not designated by a municipality or county for residential use;

(3) has an energizer that is driven by a commercial storage battery that is not more than 12 volts of direct current;

(4) produces an electric charge on contact that does not exceed energizer characteristics set for electric fence energizers by the International Electrotechnical Commission as published in the commission's standards on June 29, 2018;

(5) is completely surrounded by a nonelectric perimeter fence or wall that is not less than five feet in height;

(6) is not more than the higher of:

(A) 10 feet in height; or

(B) two feet higher than the height of the nonelectric perimeter fence or wall; and

(7) is marked with conspicuous warning signs that are located on the battery-charged fence at not less than 60-foot intervals and that read: "WARNING--ELECTRIC FENCE."

(c) Notwithstanding any other law, a municipality or county may not adopt or enforce an ordinance, order, or regulation that:

(1) requires a permit for the installation or use of a battery-charged fence to which this section applies that is in addition to an alarm system permit issued by the municipality or county;

(2) imposes installation or operational requirements for:

(A) the battery-charged fence that are inconsistent

with the standards set by the International Electrotechnical Commission as published on June 29, 2018; or

(B) an alarm system described by Subsection (b); or

(3) prohibits the installation or use of a battery-charged fence.

Added by Acts 2019, 86th Leg., R.S., Ch. 1176 (H.B. 3371), Sec. 1, eff. September 1, 2019.
Redesignated from Local Government Code, Section 250.009 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(60), eff. September 1, 2021.

Sec. 250.011. THIRD-PARTY FOOD DELIVERY SERVICES. (a) In this section, "third-party food delivery service" has the meaning assigned by Section 118.0001, Business & Commerce Code.

(b) Notwithstanding any other law, a municipality or county may not adopt or enforce an ordinance or regulation to the extent that the ordinance or regulation affects the terms of agreements between third-party food delivery services and restaurants that meet the requirements of Section 118.0004(a), Business & Commerce Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 305 (S.B. 911), Sec. 7, eff. January 1, 2022.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(17), eff. September 1, 2023.

Sec. 250.012. RESIDENTIAL FIRE PROTECTION SPRINKLER SYSTEMS. (a) Notwithstanding any other law and except as provided by Subsection (c), a municipality, county, or emergency services district may not enact an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire protection sprinkler system in a new or existing one- or two-family dwelling.

(b) A municipality, county, or emergency services district may adopt an ordinance, bylaw, order, building code, or rule allowing a multipurpose residential fire protection sprinkler system specialist or other contractor to offer, for a fee, the installation of a fire protection sprinkler system in a new one- or two-family dwelling.

(c) Subsection (a) does not apply to:

(1) a municipality that has enacted an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire protection sprinkler system in a new or existing one- or two-family dwelling on or before January 1, 2009; or

(2) an emergency services district:

(A) that before February 1, 2013, has adopted a fire code, fire code amendments, or other requirements in conflict with Subsection (a); and

(B) whose territory is located:

(i) in or adjacent to a general law municipality with a population of less than 4,000 that is served by a water control and improvement district governed by Chapter 51, Water Code; and

(ii) in a county that has a population of more than 1.2 million and is adjacent to a county with a population of more than 600,000.

Added by Acts 2021, 87th Leg., R.S., Ch. 315 (H.B. 738), Sec. 4, eff. January 1, 2022.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 152, eff. September 1, 2023.
Redesignated from Local Government Code, Section 250.011 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(30), eff. September 1, 2023.

Sec. 250.013. RESIDENTIAL IMMIGRANT OR REFUGEE CHILD DETENTION FACILITIES. (a) In this section, "residential child detention facility" means a private facility other than a facility licensed by this state that operates under a contract with the United States Immigration and Customs Enforcement, the United States Department of Health and Human Services, or another federal agency to provide 24-hour custody or care to unaccompanied immigrant or refugee children.

(b) A municipality or a county may adopt and enforce an ordinance, order, or other regulation that requires a residential child detention facility to:

(1) provide adequate water, wastewater, or other utilities

for the facility; and

(2) meet reasonable minimum standards that promote the health, safety, and welfare of the residents of the facility.

(c) A county may not regulate under Subsection (b) a facility that is located in the corporate boundaries of a municipality.

(d) Before entering into a contract with a federal agency to operate as a residential child detention facility, the owner or operator of the proposed residential child detention facility must:

(1) provide notice of the proposed facility:

(A) if the facility is located in a municipality, to the governing body of the municipality; or

(B) if the facility is located in the unincorporated area of a county, to the commissioners court of the county; and

(2) meet any requirements adopted by the municipality or county under Subsection (b).

Added by Acts 2021, 87th Leg., R.S., Ch. 978 (S.B. 2188), Sec. 1, eff. September 1, 2021.
Redesignated from Local Government Code, Section 250.011 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(31), eff. September 1, 2023.

Sec. 250.014. GROUP DAY-CARE HOME AND FAMILY HOME REGULATORY CERTAINTY. A political subdivision may not adopt or enforce an ordinance, order, or other measure that requires a group day-care home or family home licensed, registered, or listed under Chapter 42, Human Resources Code, to comply with health and safety standards that exceed the standards established by statute or Health and Human Services Commission rule.

Added by Acts 2025, 89th Leg., R.S., Ch. 25 (S.B. 599), Sec. 1, eff. May 15, 2025.

TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY
SUBTITLE A. MUNICIPAL ACQUISITION, SALE, OR LEASE OF PROPERTY
CHAPTER 251. MUNICIPAL RIGHT OF EMINENT DOMAIN

Sec. 251.001. RIGHT OF EMINENT DOMAIN. (a) When the governing body of a municipality considers it necessary, the municipality may exercise the right of eminent domain for a public use to acquire

public or private property, whether located inside or outside the municipality, for any of the following uses:

(1) the providing, enlarging, or improving of a municipally owned city hall; police station; jail or other law enforcement detention facility; fire station; library; school or other educational facility; academy; auditorium; hospital; sanatorium; market house; slaughterhouse; warehouse; elevator; railroad terminal; airport; ferry; ferry landing; pier; wharf; dock or other shipping facility; loading or unloading facility; alley, street, or other roadway; park, playground, or other recreational facility; square; water works system, including reservoirs, other water supply sources, watersheds, and water storage, drainage, treatment, distribution, transmission, and emptying facilities; sewage system including sewage collection, drainage, treatment, disposal, and emptying facilities; electric or gas power system; cemetery; and crematory;

(2) the determining of riparian rights relative to the municipal water works;

(3) the straightening or improving of the channel of any stream, branch, or drain;

(4) the straightening, widening, or extending of any alley, street, or other roadway; and

(5) any other municipal public use the governing body considers advisable.

(b) A municipality condemning land under this section may take a fee simple title to the property if the governing body expresses the intention to do so.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 3, eff. September 1, 2011.

Sec. 251.002. PROCEDURE. An exercise of the power of eminent domain granted by this chapter is governed by Chapter 21 of the Property Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 252. PURCHASING AND CONTRACTING AUTHORITY OF MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 252.001. DEFINITIONS. In this chapter:

(1) "Bond funds" includes money in the treasury received from the sale of bonds and includes the proceeds of bonds that have been voted but have not been issued and delivered.

(2) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(3) "Current funds" includes money in the treasury, taxes in the process of being collected in the current tax year, and all other revenue that may be anticipated with reasonable certainty in the current tax year.

(4) "High technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including:

(A) data processing equipment and software and firmware used in conjunction with data processing equipment;

(B) telecommunications equipment and radio and microwave systems;

(C) electronic distributed control systems, including building energy management systems; and

(D) technical services related to those items.

(5) "Planning services" means services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.

(6) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(7) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Time warrant" includes any warrant issued by a municipality that is not payable from current funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1250, Sec. 2, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 207, Sec. 1, eff. May 23, 1995.

Sec. 252.002. MUNICIPAL CHARTER CONTROLS IN CASE OF CONFLICT. Any provision in the charter of a home-rule municipality that relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud, or the manner of letting contracts and that is in conflict with this chapter controls over this chapter unless the governing body of the municipality elects to have this chapter supersede the charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 749, Sec. 5, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 7, eff. Sept. 1, 1993.

Sec. 252.003. APPLICATION OF OTHER LAW. The purchasing requirements of Section 361.426, Health and Safety Code, apply to municipal purchases made under this chapter.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 17, eff. Sept. 1, 1991.

SUBCHAPTER B. COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED

Sec. 252.021. COMPETITIVE REQUIREMENTS FOR PURCHASES. (a) Before a municipality may enter into a contract that requires an expenditure of more than $100,000 from one or more municipal funds, the municipality must:

(1) comply with the procedure prescribed by this subchapter and Subchapter C for competitive sealed bidding or competitive sealed proposals;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Chapter 2269, Government Code.

(b) A municipality may use the competitive sealed proposal procedure for the purchase of goods or services, including high technology items and insurance.

(c) The governing body of a municipality that is considering using a method other than competitive sealed bidding must determine before notice is given the method of purchase that provides the best value for the municipality. The governing body may delegate, as

appropriate, its authority under this subsection to a designated representative. If the competitive sealed proposals requirement applies to the contract, the municipality shall consider the criteria described by Section 252.043(b) and the discussions conducted under Section 252.042 to determine the best value for the municipality.

(d) This chapter does not apply to the expenditure of municipal funds that are derived from an appropriation, loan, or grant received by a municipality from the federal or state government for conducting a community development program established under Chapter 373 if under the program items are purchased under the request-for-proposal process described by Section 252.042. A municipality using a request-for-proposal process under this subsection shall also comply with the requirements of Section 252.0215.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 56(b), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 749, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 11, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 45, Sec. 1, eff. May 5, 1995; Acts 1997, 75th Leg., ch. 790, Sec. 1, eff. June 17, 1997; Acts 1999, 76th Leg., ch. 571, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 115, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 436, Sec. 2, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 436, Sec. 3, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 217, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 12.003, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 434 (S.B. 1765), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1272 (H.B. 3517), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1272 (H.B. 3517), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 4.01, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(20), eff. September 1, 2013.

Acts 2025, 89th Leg., R.S., Ch. 256 (S.B. 1173), Sec. 3, eff.

September 1, 2025.

Sec. 252.0215. COMPETITIVE BIDDING IN RELATION TO HISTORICALLY UNDERUTILIZED BUSINESS. A municipality, in making an expenditure of more than $3,000 but less than $100,000, shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this section.

Added by Acts 1993, 73rd Leg., ch. 749, Sec. 3, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.18, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 115, Sec. 2, eff. Sept. 1, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 434 (S.B. 1765), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.100, eff. September 1, 2007.

Acts 2025, 89th Leg., R.S., Ch. 256 (S.B. 1173), Sec. 4, eff. September 1, 2025.

Sec. 252.022. GENERAL EXEMPTIONS. (a) This chapter does not apply to an expenditure for:

(1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

(2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

(3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

(4) a procurement for personal, professional, or planning services, other than lobbying, government relations, or similar services intended to directly or indirectly influence state or federal lawmakers on behalf of a municipality;

(5) a procurement for work that is performed and paid for by the day as the work progresses;

(6) a purchase of land or a right-of-way;

(7) a procurement of items that are available from only one source, including:

(A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

(B) films, manuscripts, or books;

(C) gas, water, and other utility services;

(D) captive replacement parts or components for equipment;

(E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and

(F) management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;

(8) a purchase of rare books, papers, and other library materials for a public library;

(9) paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;

(10) a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;

(11) a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;

(12) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or

(D) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

(13) services performed by blind or severely disabled

persons;

(14) goods purchased by a municipality for subsequent retail sale by the municipality;

(15) electricity; or

(16) advertising, other than legal notices.

(b) This chapter does not apply to bonds or warrants issued under Subchapter A, Chapter 571.

(c) This chapter does not apply to expenditures by a municipally owned electric or gas utility or unbundled divisions of a municipally owned electric or gas utility in connection with any purchases by the municipally owned utility or divisions of a municipally owned utility made in accordance with procurement procedures adopted by a resolution of the body vested with authority for management and operation of the municipally owned utility or its divisions that sets out the public purpose to be achieved by those procedures. This subsection may not be deemed to exempt a municipally owned utility from any other applicable statute, charter provision, or ordinance.

(d) This chapter does not apply to an expenditure described by Section 252.021(a) if the governing body of a municipality determines that a method described by Chapter 2269, Government Code, provides a better value for the municipality with respect to that expenditure than the procedures described in this chapter and the municipality adopts and uses a method described in that chapter with respect to that expenditure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 47(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1001, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 42, Sec. 1, eff. April 25, 1991; Acts 1993, 73rd Leg., ch. 749, Sec. 7, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 9, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 207, Sec. 2, eff. May 23, 1995; Acts 1995, 74th Leg., ch. 746, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 125, Sec. 1, eff. May 19, 1997; Acts 1997, 75th Leg., ch. 1370, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 405, Sec. 41, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1409, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.290, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 434 (S.B. 1765), Sec. 3, eff.

September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(3), eff. April 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 4.02, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(21), eff. September 1, 2013.

Acts 2025, 89th Leg., R.S., Ch. 1073 (H.B. 223), Sec. 1, eff. September 1, 2025.

Sec. 252.023. EXEMPTIONS FROM REFERENDUM PROVISIONS. The referendum provisions prescribed by Section 252.045 do not apply to expenditures that are payable:

(1) from current funds;

(2) from bond funds; or

(3) by time warrants unless the amount of the time warrants issued by the municipality for all purposes during the current calendar year exceeds:

(A) $7,500 if the municipality's population is 5,000 or less;

(B) $10,000 if the municipality's population is 5,001 to 24,999;

(C) $25,000 if the municipality's population is 25,001 to 49,999; or

(D) $100,000 if the municipality's population is more than 50,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 109, Sec. 1, eff. Aug. 26, 1991.

Sec. 252.024. SELECTION OF INSURANCE BROKER. This chapter does not prevent a municipality from selecting a licensed insurance broker as the sole broker of record to obtain proposals and coverages for excess or surplus insurance that provides necessary coverage and adequate limits of coverage in structuring layered excess coverages in all areas of risk requiring special consideration, including public official liability, police professional liability, and airport liability. The broker may be retained only on a fee basis and may

not receive any other remuneration from any other source.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. PROCEDURES

Sec. 252.041. NOTICE REQUIREMENT. (a) If the competitive sealed bidding requirement applies to the contract, notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. The date of the first publication must be before the 14th day before the date set to publicly open the bids and read them aloud. If no newspaper is published in the municipality, the notice must be posted at the city hall for 14 days before the date set to publicly open the bids and read them aloud.

(b) If the competitive sealed proposals requirement applies to the contract, notice of the request for proposals must be given in the same manner as that prescribed by Subsection (a) for the notice for competitive sealed bids.

(c) If the contract is for the purchase of machinery for the construction or maintenance of roads or streets, the notice for bids and the order for purchase must include a general specification of the machinery desired.

(d) If the governing body of the municipality intends to issue time warrants for the payment of any part of the contract, the notice must include a statement of:

(1) the governing body's intention;

(2) the maximum amount of the proposed time warrant indebtedness;

(3) the rate of interest the time warrants will bear; and

(4) the maximum maturity date of the time warrants.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 109, Sec. 2, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 749, Sec. 4, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 6, eff. Sept. 1, 1993.

Sec. 252.0415. PROCEDURES FOR ELECTRONIC BIDS OR PROPOSALS. (a) A municipality may receive bids or proposals under this chapter

through electronic transmission if the governing body of the municipality adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

(b) Notwithstanding any other provision of this chapter, an electronic bid or proposal is not required to be sealed. A provision of this chapter that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1063, Sec. 6, eff. Sept. 1, 2001.

Sec. 252.042. REQUESTS FOR PROPOSALS FOR CERTAIN PROCUREMENTS. (a) Requests for proposals made under Section 252.021 must solicit quotations and must specify the relative importance of price and other evaluation factors.

(b) Discussions in accordance with the terms of a request for proposals and with regulations adopted by the governing body of the municipality may be conducted with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. To obtain the best final offers, revisions may be permitted after submissions and before the award of the contract.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 56(c), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 45, Sec. 2, eff. May 5, 1995.

Sec. 252.043. AWARD OF CONTRACT. (a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

(b) In determining the best value for the municipality, the municipality may consider:

(1) the purchase price;

(2) the reputation of the bidder and of the bidder's goods

or services;

(3) the quality of the bidder's goods or services;

(4) the extent to which the goods or services meet the municipality's needs;

(5) the bidder's past relationship with the municipality;

(6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;

(7) the total long-term cost to the municipality to acquire the bidder's goods or services; and

(8) any relevant criteria specifically listed in the request for bids or proposals.

(b-1) In addition to the considerations provided by Subsection (b), a joint board described by Section 22.074(d), Transportation Code, that awards contracts in the manner provided by this chapter may consider, in determining the best value for the board, the impact on the ability of the board to comply with laws, rules, and programs relating to contracting with small businesses, as defined by 13 C.F.R. Section 121.201.

(c) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

(d) Except as provided by Subsection (d-1), the contract must be awarded to the lowest responsible bidder if the competitive sealed bidding requirement applies to the contract for construction of:

(1) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or

(2) buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

(d-1) A contract for construction of a project described by Subsection (d) that requires an expenditure of $1.5 million or less may be awarded using the competitive sealed proposal procedure prescribed by Subchapter D, Chapter 2269, Government Code.

(e) If the competitive sealed bidding requirement applies to

the contract for construction of a facility, as that term is defined by Section 2269.001, Government Code, the contract must be awarded to the lowest responsible bidder or awarded under the method described by Chapter 2269, Government Code.

(f) The governing body may reject any and all bids.

(g) A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. This chapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid.

(h) If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals.

(i) This section does not apply to a contract for professional services, as that term is defined by Section 2254.002, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1370, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1409, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 739 (H.B. 2661), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 428 (S.B. 1618), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 4.03, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(22), eff. September 1, 2013.

Sec. 252.0435. SAFETY RECORD OF BIDDER CONSIDERED. In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:

(1) the governing body has adopted a written definition and criteria for accurately determining the safety record of a bidder;

(2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and

(3) the determinations are not arbitrary and capricious.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 58(b), eff. Aug. 28, 1989.

Sec. 252.0436. CONTRACT WITH PERSON INDEBTED TO MUNICIPALITY. (a) A municipality by ordinance may establish regulations permitting the municipality to refuse to enter into a contract or other transaction with a person indebted to the municipality.

(b) It is not a violation of this chapter for a municipality, under regulations adopted under Subsection (a), to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the municipality.

(c) In this section, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the municipality requiring approval by the governing body of the municipality.

Added by Acts 2003, 78th Leg., ch. 156, Sec. 1, eff. Sept. 1, 2003.

Sec. 252.044. CONTRACTOR'S BOND. (a) If the contract is for the construction of public works, the bidder to whom the contract is awarded must execute a good and sufficient bond. The bond must be:

(1) in the full amount of the contract price;

(2) conditioned that the contractor will faithfully perform the contract; and

(3) executed, in accordance with Chapter 2253, Government Code, by a surety company authorized to do business in the state.

(b) Repealed by Acts 1993, 73rd Leg., ch. 865, Sec. 2, eff. Sept. 1, 1993.

(c) The governing body of a home-rule municipality by ordinance may adopt the provisions of this section and Chapter 2253, Government Code, relating to contractors' surety bonds, regardless of a conflicting provision in the municipality's charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 865, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(17), eff. Sept. 1, 1995.

Sec. 252.045. REFERENDUM ON ISSUANCE OF TIME WARRANTS. (a) If, by the time set for letting a contract under this chapter, a written petition with the required signatures is filed with the municipal secretary or clerk requesting the governing body of the municipality to order a referendum on the question of whether time warrants should be issued for an expenditure under the contract, the governing body may not authorize the expenditure or finally award the contract unless the question is approved by a majority of the votes received in the referendum. The petition must be signed by at least 10 percent of the qualified voters of the municipality whose names appear as property taxpayers on the municipality's most recently approved tax rolls.

(b) If a petition is not filed, the governing body may finally award the contract and issue the time warrants. In the absence of a petition, the governing body may, at its discretion, order the referendum.

(c) The provisions of Subtitles A and C, Title 9, Government Code, relating to elections for the issuance of municipal bonds and to the issuance, approval, registration, and sale of bonds govern the referendum and the time warrants to the extent those provisions are consistent with this chapter. However, the time warrants may mature over a term exceeding 40 years only if the governing body finds that the financial condition of the municipality will not permit payment of warrants issued for a term of 40 years or less from taxes that are imposed substantially uniformly during the term of the warrants.

(d) This section does not supersede any additional rights provided by the charter of a special-law municipality and relating to a referendum.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 38, eff. Sept. 1, 1999.

Sec. 252.046. CIRCUMSTANCES IN WHICH CURRENT FUNDS TO BE SET ASIDE. If an expenditure under the contract is payable by warrants

on current funds, the governing body of the municipality by order shall set aside an amount of current funds that will discharge the principal and interest of the warrants. Those funds may not be used for any other purpose, and the warrants must be discharged from those funds and may not be refunded.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 252.047. PAYMENT METHOD FOR CERTAIN CONTRACTS. If the contract is for the construction of public works or for the purchase of materials, equipment, and supplies, the municipality may let the contract on a lump-sum basis or unit price basis as the governing body of the municipality determines. If the contract is let on a unit price basis, the information furnished to bidders must specify the approximate quantity needed, based on the best available information, but payment to the contractor must be based on the actual quantity constructed or supplied.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 252.048. CHANGE ORDERS. (a) If changes in plans or specifications are necessary after the performance of the contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the governing body of the municipality may approve change orders making the changes.

(b) The total contract price may not be increased because of the changes unless additional money for increased costs is appropriated for that purpose from available funds or is provided for by the authorization of the issuance of time warrants.

(c) If a change order involves a decrease or an increase of $50,000 or less, the governing body may grant general authority to an administrative official of the municipality to approve the change orders.

(c-1) If a change order for a public works contract in a municipality with a population of 240,000 or more involves a decrease or an increase of $100,000 or less, or a lesser amount as provided by ordinance, the governing body of the municipality may grant general authority to an administrative official of the municipality to

approve the change order.

(d) The original contract price may not be increased under this section by more than 25 percent. The original contract price may not be decreased under this section by more than 25 percent without the consent of the contractor.

(e) This section applies only to a contract awarded through a competitive procedure as required by Section 252.021.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 706, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 746, Sec. 2, eff. Aug. 28, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 479 (H.B. 679), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.09, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 7, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1356 (S.B. 1430), Sec. 2, eff. June 14, 2013.

Acts 2023, 88th Leg., R.S., Ch. 406 (H.B. 1440), Sec. 1, eff. September 1, 2023.

Sec. 252.049. CONFIDENTIALITY OF INFORMATION IN BIDS OR PROPOSALS. (a) Trade secrets and confidential information in competitive sealed bids are not open for public inspection.

(b) If provided in a request for proposals, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 252.050. LEASE-PURCHASE OR INSTALLMENT PURCHASE OF REAL PROPERTY. (a) This section applies only to a lease-purchase or installment purchase of real property financed by the issuance of certificates of participation.

(b) The governing body of a municipality may not make an agreement under which the municipality is a lessee in a lease-purchase of real property or is a purchaser in an installment purchase of real property unless the governing body first obtains an appraisal by a qualified appraiser who is not an employee of the municipality. The purchase price may not exceed the fair market value of the real property, as shown by the appraisal.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 10, Sec. 2, eff. Oct. 18, 1989.

Sec. 252.051. APPRAISAL REQUIRED BEFORE PURCHASE OF PROPERTY WITH BOND PROCEEDS. A municipality may not purchase property wholly or partly with bond proceeds until the municipality obtains an independent appraisal of the property's market value.

Added by Acts 2011, 82nd Leg., R.S., Ch. 719 (H.B. 782), Sec. 1, eff. September 1, 2011.

SUBCHAPTER D. ENFORCEMENT

Sec. 252.061. INJUNCTION. If the contract is made without compliance with this chapter, it is void and the performance of the contract, including the payment of any money under the contract, may be enjoined by:

(1) any property tax paying resident of the municipality; or

(2) a person who submitted a bid for a contract for which the competitive sealed bidding requirement applies, regardless of residency, if the contract is for the construction of public works.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 979 (H.B. 3668), Sec. 1, eff. September 1, 2009.

Sec. 252.062. CRIMINAL PENALTIES. (a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component

purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.

(b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.

(c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described by Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1250, Sec. 3, eff. Sept. 1, 1989.

Sec. 252.063. REMOVAL; INELIGIBILITY. (a) The final conviction of a municipal officer or employee for an offense under Section 252.062(a) or (b) results in the immediate removal from office or employment of that person.

(b) For four years after the date of the final conviction, the removed officer or employee is ineligible:

(1) to be a candidate for or to be appointed or elected to a public office in this state;

(2) to be employed by the municipality with which the person served when the offense occurred; and

(3) to receive any compensation through a contract with that municipality.

(c) This section does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

Added by Acts 1989, 71st Leg., ch. 1250, Sec. 4, eff. Sept. 1, 1989.

CHAPTER 253. SALE OR LEASE OF PROPERTY BY MUNICIPALITIES

Sec. 253.001. SALE OF PARK LAND, MUNICIPAL BUILDING SITE, OR ABANDONED ROADWAY. (a) Except as provided by Subsection (b), the governing body of a municipality may sell and convey land or an interest in land that the municipality owns, holds, or claims as a public square, park, or site for the city hall or other municipal building or that is an abandoned part of a street or alley. A sale under this section may include the improvements on the property.

(b) Land owned, held, or claimed as a public square or park may not be sold unless the issue of the sale is submitted to the qualified voters of the municipality at an election and is approved by a majority of the votes received at the election; provided, however, this provision shall not apply to the sale of land or right-of-way for drainage purposes to a district, county, or corporation acting on behalf of a county or district.

(c) To effect the sale, the governing body shall adopt an ordinance directing the municipality's mayor or city manager to execute the conveyance.

(d) The proceeds of the sale may be used only to acquire and improve property for the purposes for which the sold property was used. Failure to so use the proceeds, however, does not impair the title to the sold property acquired by a purchaser for a valuable consideration.

(e) Subsection (b) does not apply to a conveyance of park land that:

(1) is owned by a home-rule municipality with a population of less than 80,000 and that is located in a county bordering the Gulf of Mexico;

(2) is one acre or less;

(3) is part of a park that is 100 acres or less;

(4) is sold or is conveyed as a sale to the owner of adjoining property; and

(5) is conveyed pursuant to a resolution or an ordinance that:

(A) is adopted under this section;

(B) requires the sale to be with an owner of adjoining property for fair market value as determined by an independent appraisal obtained by the municipality; and

(C) has an effective date before December 31, 1995.

(f) The election requirements of Subsection (b) do not apply to a conveyance of a park if:

(1) the park is owned by a home-rule municipality with a population of more than one million;

(2) it is a park of two acres or less;

(3) the park is no longer usable and functional as a park;

(4) the proceeds of the sale will be used to acquire land for park purposes;

(5) a public hearing on the proposed conveyance is held by

the governing body of the home-rule municipality and that body finds that the property is no longer usable and functional as a park; and

(6) the park is conveyed pursuant to an ordinance adopted by the governing body of the home-rule municipality, unless within 60 days from the date of the public hearing the governing body of the home-rule municipality is presented with a petition opposing the conveyance which contains the name, address, and date of signature of no less than 1,500 registered voters residing within the municipal limits of the municipality; then, the governing body of the home-rule municipality shall either deny the conveyance or shall approve the conveyance subject to the election required in Subsection (b); or

(7) the conveyance involves an exchange of two existing parks, situated within a home-rule municipality with a population of more than one million, that together total 1.5 acres or less in size, that are located within 1,000 feet of each other, that are located in an industrial area, that have been found in a public hearing to no longer be usable and functional as parks, and that are conveyed pursuant to an ordinance, adopted by the governing body of that municipality, that has an effective date before December 1, 1993.

(g) A sale made under Subsection (e) or (j) is exempt from the notice and bidding requirements in Chapter 272.

(h) Expired.

(i) Subsection (b) does not apply to a conveyance of park land that is:

(1) owned by a home-rule municipality with a population of more than 625,000;

(2) less than three acres and part of a larger park that is located in a flood plain or floodway;

(3) not actively used for recreational purposes;

(4) sold or conveyed as an interest in land to the owner of an interest in the adjoining property; and

(5) conveyed pursuant to a resolution or an ordinance that has an effective date before December 31, 2004.

(j) Subsection (b) does not apply to a conveyance of park land that is:

(1) owned by a home-rule municipality with a population of less than 100,000;

(2) one-third acre or less;

(3) part of a park that is five acres or less; and

(4) sold or conveyed as a sale to the owner of adjoining property as provided by a resolution or ordinance that has an effective date before December 31, 2007.

(k) A petition for the judicial review of the sale of park land under Subsection (j) must be filed on or before the 30th day after the date the ordinance or resolution is adopted. A petition filed after the period prescribed by this subsection is barred.

(l) Subsection (b) does not apply to a conveyance of park land owned by a home-rule municipality that:

(1) is located in a county with a population of more than three million; and

(2) has a population of more than 33,000 and less than 35,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 328, Sec. 14, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 597, Sec. 1, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 179, Sec. 1, eff. May 17, 1993; Acts 1995, 74th Leg., ch. 344, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 33, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 13.18, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 754, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 633 (H.B. 680), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 577 (H.B. 3352), Sec. 1, eff. June 17, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 153, eff. September 1, 2023.

Sec. 253.002. TRANSACTIONS CONCERNING AN ISLAND, FLAT, OR SUBMERGED LAND. (a) A municipality may sell, convey, lease, or provide an option to all or a part of an island, flat, or submerged land the municipality owns and may make development plans and contracts for these purposes, at the times and on the terms that the governing body determines are proper and in the public interest, if the state or the Republic of Texas relinquished its interest in the land to the municipality before April 23, 1953.

(b) For a home-rule municipality the charter of which

authorizes a referendum on such a transaction, the governing body may make the transaction without advertising or receiving bids, but the transaction may not take effect unless either it has been approved at a referendum ordered for that purpose or the period for the submission of a petition for a referendum on the transaction has expired.

(c) This section does not grant or convey to a municipality title to oil, gas, or other minerals.

(d) This section prevails over any conflicting charter provision of a home-rule municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 253.003. PURCHASE AND SALE OF FEDERAL PROPERTY. (a) The governing body of a municipality with fewer than 10,000 inhabitants may purchase for municipal purposes any real property, including improvements on the property, that the federal government offers for sale to the municipality.

(b) If the purpose for which property purchased under this section ceases to exist or if the property is no longer needed for the purpose, the governing body may sell and convey the property for the highest obtainable price.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 253.004. GRANT OR LEASE OF PROPERTY FOR JUVENILE BOARD. A home-rule municipality by grant or lease may donate to the county in which the municipality is located any unimproved land for use by a juvenile board of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 253.005. LEASE OF OIL, GAS, OR MINERAL LAND. (a) Except as provided by Subsection (b), a municipality may lease oil, gas, or mineral land that it owns, in the manner and on the terms that the governing body of the municipality determines, for the benefit of the municipality. A lease under this section is not a sale under the law governing the sale of municipal land.

(b) A municipality may lease under this section a street, alley, or public square in the municipality if the lease prohibits the lessee from using the surface of the land for drilling, production, or other operations. In this subsection, "public square" does not include a dedicated public park.

(c) A well may not be drilled in the thickly settled part of the municipality or within 200 feet of a private residence.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 446 (H.B. 2333), Sec. 1, eff. June 19, 2009.

Sec. 253.006. LEASE OF MUNICIPAL HOSPITAL OR SWIMMING POOL. (a) The governing body of a municipality with a population of 65,000 or less may lease all or part of a hospital owned by the municipality, to be operated by the lessee as a public hospital.

(b) The governing body of any municipality may lease a swimming pool owned by the municipality, to be operated by the lessee as a public swimming pool.

(c) A lease under this section must:

(1) be authorized by ordinance or resolution adopted by the governing body;

(2) be executed on behalf of the municipality by the mayor and the municipal secretary or clerk;

(3) be impressed with the municipal seal; and

(4) cover a period of not more than 50 years.

(d) A lease under this section is subject to the terms agreed to by the governing body and the lessee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 253.007. SALE OR LEASE OF COMPUTER SOFTWARE BY CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that has a population of more than 5,000.

(b) A municipality that independently or in conjunction with any person develops automated information systems software may contract with a person for the sale, lease, marketing, or other distribution of the software. Any release of municipally developed

automated information systems software must be under a contract that provides that the municipality will receive a royalty, license right, or other appropriate compensation for developing the software. The provisions of Chapter 552, Government Code, governing the cost of making copies of public records do not apply to automated information systems software subject to a contract under this section.

(c) In this section, "automated information systems software" means any procedure or software that is designed, operated, or maintained to collect, record, process, store, retrieve, display, or transmit information.

(d) Notwithstanding any other provision of this section, this section does not apply to the cost of production for public inspection or copying of public records collected, assembled, or maintained through use of the software, which cost is governed by Subchapter F, Chapter 552, Government Code, without regard to the cost of developing the software.

Added by Acts 1993, 73rd Leg., ch. 505, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1993, 73rd Leg., ch. 428, Sec. 7, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), (100), eff. Sept. 1, 1995.

Sec. 253.008. SALE OF REAL PROPERTY BY PUBLIC AUCTION. (a) The governing body of a municipality may sell real property owned by the municipality by public auction or by sealed bid under Section 272.001.

(b) To sell real property by public auction, the governing body of a municipality shall publish notice of the auction before the 20th day before the date the auction is held. The notice for sale of the real property must be published once a week for three consecutive weeks before the date the auction is held in a newspaper of general circulation in the county in which the municipality is located and, if the real property is located in another county, in a newspaper of general circulation in the county in which the real property is located. The notice must include a description of the real property, including its location, and the date, time, and location at which the auction is to be held.

Added by Acts 1993, 73rd Leg., ch. 206, Sec. 1, eff. Aug. 30, 1993. Renumbered from Local Government Code Sec. 253.007 by Acts 1995, 74th

Leg., ch. 76, Sec. 17.01(39), eff. Sept. 1, 1995.

Sec. 253.009. CONVEYANCE OF ADJOINING PROPERTY TO MUNICIPAL DEVELOPMENT CORPORATION. (a) A municipality may convey to a municipally created economic development corporation, including a development corporation organized under the Development Corporation Act (Subtitle C1, Title 12), real property that has been conveyed by gift to the municipality or conveyed to the municipality as part of a legal settlement and that is adjacent to an area designated for development by the corporation.

(b) A municipality may convey property under Subsection (a) for any fair consideration approved by the governing body of the municipality. For a conveyance under this section to be effective, the governing body must adopt an ordinance that:

(1) describes the property to be conveyed;

(2) requires the conveyance to comply with the requirements of Section 5.022, Property Code, except a covenant of general warranty is not required; and

(3) states the consideration paid.

(c) A municipality may convey the property under this section without complying with the other notice or bidding requirements prescribed by other law, including Section 272.001.

Added by Acts 1999, 76th Leg., ch. 1186, Sec. 1, eff. June 18, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.17, eff. April 1, 2009.

Sec. 253.010. SALE OF REAL PROPERTY TO CERTAIN NONPROFIT OR RELIGIOUS ORGANIZATIONS. (a) Notwithstanding any other provision of law, the governing body of a municipality may provide for the manner in which any land acquired by the municipality may be sold if the land is sold to:

(1) a nonprofit organization that develops housing for low-income individuals and families as a primary activity to promote community-based revitalization of the municipality;

(2) a nonprofit corporation described by 26 U.S.C. Section 501(c)(3) that:

(A) has been incorporated in this state for at least one year;

(B) has a corporate purpose to develop affordable housing that is stated in its articles of incorporation, bylaws, or charter;

(C) has at least one-fourth of its board of directors residing in the municipality; and

(D) engages primarily in the building, repair, rental, or sale of housing for low-income individuals and families; or

(3) a religious organization that:

(A) owns other property located in the municipality that is exempt from taxation under Section 11.20, Tax Code; and

(B) has entered into a written agreement with the municipality regarding the revitalization of the land.

(b) A municipality operating under this section may by ordinance determine the individuals and families who qualify as low-income individuals and families under Subsection (a)(1) or (2). In adopting an ordinance under this subsection, the municipality shall consider median income of individuals and median family income in the area.

Added by Acts 1995, 74th Leg., ch. 550, Sec. 1, eff. June 13, 1995. Amended by Acts 1997, 75th Leg., ch. 712, Sec. 1, eff. June 17, 1997; Acts 1999, 76th Leg., ch. 181, Sec. 1, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 817, Sec. 3, eff. Sept. 1, 1999. Redesignated from Tax Code, Sec. 34.015 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 18.005, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 33, eff. Sept. 1, 2001.

Sec. 253.011. CONVEYANCE TO NONPROFIT CORPORATION FOR PUBLIC USE. (a) In this section, "nonprofit organization" means an organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986, as amended.

(b) This section does not apply to a municipality with a population of 1.9 million or more.

(c) A municipality may transfer to a nonprofit organization, for consideration described by this section, real property or an interest in real property without complying with the notice and bidding requirements of Section 272.001(a) or other law.

(d) Consideration for the transfer authorized by this section shall be in the form of an agreement between the parties that requires the nonprofit organization to use the property in a manner that primarily promotes a public purpose of the municipality. If the nonprofit organization at any time fails to use the property in that manner, ownership of the property automatically reverts to the municipality.

(e) The municipality shall transfer the property by an appropriate instrument of transfer. The instrument must include a provision that:

(1) requires the nonprofit organization to use the property in a manner that primarily promotes a public purpose of the municipality; and

(2) indicates that ownership of the property automatically reverts to the municipality if the nonprofit organization at any time fails to use the property in that manner.

(f) Provided, however, that if the real property to be transferred lies outside the municipality's corporate limits and outside the county where 80 percent of the municipality's residents reside, the municipality must obtain the consent of the county commissioners court in the county where the real property is located.

Added by Acts 2001, 77th Leg., ch. 784, Sec. 1, eff. Sept. 1, 2001.

Sec. 253.012. CONVEYANCE TO ECONOMIC DEVELOPMENT CORPORATION BY CERTAIN MUNICIPALITIES. (a) In this section, "economic development corporation" means a Type A corporation governed by Chapter 504 or a Type B corporation governed by Chapter 505.

(b) This section applies only to a municipality with a population of 20,000 or less.

(c) A municipality may transfer to an economic development corporation, for consideration described by this section, real property or an interest in real property without complying with the notice and bidding requirements of Section 272.001(a) or other law.

(d) Consideration for a transfer authorized by this section is in the form of an agreement between the parties that requires the economic development corporation to use the property in a manner that primarily promotes a public purpose of the municipality. If the economic development corporation at any time fails to use the

property in that manner, ownership of the property automatically reverts to the municipality.

(e) The municipality shall transfer the property by an appropriate instrument of transfer. The instrument must include a provision that:

(1) requires the economic development corporation to use the property in a manner that primarily promotes a public purpose of the municipality; and

(2) indicates that ownership of the property automatically reverts to the municipality if the nonprofit organization at any time fails to use the property in that manner.

(f) A municipality may not transfer property to an economic development corporation under this section if the municipality acquired the property through eminent domain.

Added by Acts 2009, 81st Leg., R.S., Ch. 1158 (H.B. 3072), Sec. 1, eff. June 19, 2009.

Sec. 253.0125. CONVEYANCE TO CERTAIN ENTITIES FOR ECONOMIC DEVELOPMENT PURPOSES. (a) This section applies only to an entity and a municipality that have entered into an economic development agreement authorized by Chapter 380.

(b) Notwithstanding Section 253.008 or 272.001(a) or other law and except as provided by Subsection (d), a municipality may transfer to an entity real property or an interest in real property for consideration described by this section.

(c) Consideration for a transfer authorized by this section is in the form of an agreement between the parties that requires the entity to use the property in a manner that primarily promotes a public purpose of the municipality relating to economic development. The agreement must include provisions under which the municipality is granted sufficient control to ensure that the public purpose is accomplished and the municipality receives the return benefit.

(d) A municipality may not transfer for consideration authorized by this section real property or an interest in real property the municipality owns, holds, or claims as a public square or park.

(e) Before a municipality may transfer real property or an interest in real property under an agreement as provided by this

section, the municipality must provide notice to the public published in a newspaper of general circulation in the county in which the property is located or, if there is no such newspaper, by any means for the municipality to provide public notice authorized by statute or by ordinance of the municipality. The notice must:

(1) include a description of the property, including its location;

(2) be provided within 10 days before the date the property or an interest in the property is transferred; and

(3) be published for two separate days within the period prescribed by Subdivision (2), if the notice is published in a newspaper.

(f) A municipality may not transfer real property for consideration described by this section if the property was acquired by the municipality from the previous owner by the exercise of eminent domain authority or the threat of the exercise of eminent domain authority.

(g) This section does not constitute a grant or expansion of eminent domain authority.

Added by Acts 2023, 88th Leg., R.S., Ch. 170 (S.B. 543), Sec. 1, eff. May 24, 2023.

Sec. 253.013. DONATION OF REAL PROPERTY OF NEGLIGIBLE OR NEGATIVE VALUE TO CERTAIN PRIVATE PERSONS. (a) This section applies only to:

(1) a municipality with a population greater than 150,000 and less than 200,000 that is located in three counties; and

(2) a municipality with a population greater than 78,000 and less than 88,000 that is located in a county in which part but not all of a military installation is located.

(b) The governing body of a municipality to which this section applies may determine that real property located inside the boundaries of the municipality and owned by the municipality is surplus real property of negligible or negative value if:

(1) the property is not improved, including by having a structure on it or by being paved;

(2) ownership of the property does not provide any identifiable positive benefit to the municipality in relation to the

municipality's current needs;

(3) ownership of the property is not likely to provide any identifiable positive benefit to the municipality in relation to the municipality's future needs; and

(4) the cost of maintaining the property is a substantial burden to the municipality.

(c) The governing body of a municipality that makes a determination under Subsection (b) shall adopt written findings and conclusions regarding the determination made.

(d) The governing body of a municipality that makes a determination under Subsection (b) that certain real property is surplus real property of negligible or negative value may donate that property to a private person who owns property adjacent to the surplus real property of negligible or negative value.

(e) Section 272.001 does not apply to a conveyance of property authorized by this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 816 (H.B. 2584), Sec. 1, eff. June 17, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 303 (H.B. 1427), Sec. 1, eff. June 14, 2013.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 154, eff. September 1, 2023.

Sec. 253.014. BROKER AGREEMENTS AND FEES FOR SALE OF REAL PROPERTY BY HOME-RULE MUNICIPALITY. (a) In this section, "broker" means a person licensed as a broker under Chapter 1101, Occupations Code.

(b) The governing body of a home-rule municipality may contract with a broker to sell a tract of real property that the municipality:

(1) owns; or

(2) holds in trust and has the authority to sell.

(c) The governing body may pay a fee if a broker produces a ready, willing, and able buyer to purchase a tract of real property.

(d) If a contract is made under Subsection (b) with a broker to list the tract of real property for sale for at least 30 days with a multiple-listing service, the governing body on or after the 30th day after the date the property is listed may sell the tract of real

property to a ready, willing, and able buyer who is produced by any broker using the multiple-listing service and who submits the highest cash offer.

(e) The governing body may sell a tract of real property under this section without complying with the public auction requirements prescribed by Section 253.008 or other law or the notice and bidding requirements prescribed by Section 272.001 or other law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 462 (S.B. 985), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1110 (H.B. 3244), Sec. 1, eff. June 19, 2015.

CHAPTER 254. ACQUISITION AND DEVELOPMENT OF ISLAND PROPERTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 254.001. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality located on a channel, canal, bay, inlet, or lake connected to the Gulf of Mexico.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.002. DEFINITIONS. In this chapter:

(1) "Board" means a board of trustees established under Section 254.021.

(2) "Island property" means:

(A) land located on an island in the channel, canal, bay, inlet, or lake on which the municipality is located; and

(B) facilities and improvements related to land described by Paragraph (A).

(3) "Obligation" includes a bond.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.003. AUTHORITY REGARDING ISLAND PROPERTY. A municipality may construct, acquire, lease as lessor or lessee, improve, enlarge, extend, repair, maintain, replace, develop, or operate facilities and improvements necessary or convenient for the

proper administration of island property owned by the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.004. APPLICABILITY OF OTHER LAW. Except to the extent that it conflicts with this chapter, Subchapter B, Chapter 1502, Government Code, applies to revenue obligations issued under this chapter, and a municipality to which this chapter applies has, with respect to a revenue obligation issued under this chapter, each power granted by that subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

SUBCHAPTER B. MANAGEMENT AND CONTROL OF ISLAND PROPERTY; BOARD OF TRUSTEES

Sec. 254.021. MANAGEMENT AND CONTROL BY GOVERNING BODY OR BOARD OF TRUSTEES. (a) An ordinance authorizing the issuance of obligations under this chapter may provide that, while the principal of or interest on the obligations is outstanding, management and control of island property owned by the municipality and of the revenue generated by the island property is in:

(1) the governing body of the municipality; or

(2) a board of trustees named in the ordinance.

(b) A board may consist of not more than nine members.

(c) Notwithstanding Subsection (a), if the municipality is operating under a home-rule charter that requires that island property be managed or controlled by a board of trustees or commission, the charter controls and a reference in this chapter to a board of trustees is a reference to the board or commission provided in the charter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.022. ORGANIZATION AND DUTIES OF BOARD. (a) Except as otherwise provided by a charter provision described by Section 254.021(c), an ordinance under Section 254.021(a) that places management and control of island property in a board may:

(1) specify the board members' compensation;

(2) specify the members' terms of office;

(3) specify the members' powers and duties;

(4) provide for the election or appointment of the members' successors; and

(5) specify any other matter relating to the members' organization and duties.

(b) On any matter not covered by the ordinance or the municipal charter, the board is governed by the laws and rules governing the governing body of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.023. CHARACTER OF BOARD; GENERAL POWERS. (a) A board is a body politic and corporate.

(b) The board may:

(1) manage, control, maintain, and operate the island property;

(2) employ a general manager and any other officer, employee, or representative the board considers appropriate;

(3) prepare and adopt a budget, set charges for a service or facility, authorize an expenditure, and manage and control the income and revenue of the island property;

(4) determine policies and adopt rules and procedures for the operation of the island property;

(5) acquire property or an interest in property to accomplish the purposes of this chapter and construct an improvement or facility on the property;

(6) contract in its own name, but not in the name of the municipality;

(7) sue and be sued in its own name;

(8) adopt, use, and alter a corporate seal; and

(9) establish a security force and commission as a peace officer an employee of the force who is licensed by the Texas Commission on Law Enforcement.

(c) A person commissioned as a peace officer under this chapter has each right, privilege, obligation, and duty of other peace officers in this state while on the property under control of the board or in the actual course and scope of the person's employment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.54, eff. May 18, 2013.

Sec. 254.024. COMPETITIVE BIDDING. (a) The board may award a contract involving the expenditure of more than $15,000 only by competitive bidding.

(b) Competitive bidding is not required:

(1) for a contract for:

(A) personal or professional services;

(B) a real estate transaction;

(C) operation of an improvement or facility under a specific agreement for a limited term; or

(D) insurance; or

(2) if the board determines that the delay posed by the competitive bidding procedure would prevent or substantially impair the operation of island property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

SUBCHAPTER C. OBLIGATIONS

Sec. 254.051. AUTHORITY OF MUNICIPALITY TO ISSUE OBLIGATIONS. The governing body of a municipality by ordinance may issue in the name of the municipality obligations payable from taxes, revenue, or both to provide money for a facility or improvement under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.052. ELECTION. (a) Obligations payable from ad valorem taxes, other than refunding obligations, may be issued only if authorized at an election held under Chapter 1251, Government Code.

(b) Notwithstanding any law or charter provision to the contrary, an election is not required to authorize the issuance under this chapter of obligations payable solely from revenue if:

(1) the obligations are not:

(A) a debt of the municipality; or

(B) a pledge of the faith and credit of the municipality; and

(2) the owner or holder of an obligation is not entitled to demand payment from money raised by taxation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.053. AUTHORITY OF BOARD TO ISSUE OBLIGATIONS. A board by resolution may issue in the name of the board, with the consent of the governing body of the municipality:

(1) obligations payable from revenue in the manner provided by this chapter and refund previously issued obligations;

(2) expense notes drawn against the revenues of the board to pay expenses during the fiscal year of the board in which the notes are issued; and

(3) certificates of participation in contractual obligations to pay money.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.054. LIMITATION ON AGGREGATE AMOUNT OF EXPENSE NOTES. The aggregate amount of expense notes issued under Section 254.053(2) that are outstanding at any time during a fiscal year may not exceed 50 percent of the difference between:

(1) the revenue of the board budgeted for that fiscal year; and

(2) the principal of and interest on board obligations other than expense notes to be paid from the revenue of the board during that fiscal year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.055. MATURITY OF OBLIGATION. An obligation issued under this chapter must mature not later than 40 years after its date of issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.056. SIGNATURES; SEAL. (a) An obligation issued by a municipality under this chapter must be:

(1) signed by the mayor or the presiding officer of the municipality;

(2) countersigned by the municipality's secretary or clerk; and

(3) impressed with the seal of the municipality.

(b) An obligation authorized by the board under this chapter must be:

(1) signed by the presiding officer of the board;

(2) countersigned by the secretary or assistant secretary; and

(3) impressed with the seal of the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.057. SALE OF OBLIGATIONS. (a) A municipality or board may sell obligations issued under this chapter at public or private sale under terms the governing body or the board determines to be the most advantageous and reasonably obtainable.

(b) Subsection (a) applies to obligations payable from revenue notwithstanding any restriction in a municipal charter to the contrary.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.058. CONTENTS OF ORDINANCE OR RESOLUTION. (a) The ordinance of the governing body or the resolution of the board authorizing the issuance of revenue obligations may:

(1) provide for the flow of funds, the establishment and maintenance of an interest and sinking fund, reserve fund, or other fund, and the depositing of money; and

(2) contain any covenant, as considered appropriate, with respect to the obligations, the pledged revenue, and the operation and maintenance of the island property.

(b) The ordinance or resolution or another proceeding may:

(1) prohibit the further issuance of obligations payable from the pledged revenue; or

(2) reserve the right to issue additional obligations to be

secured by a pledge of and payable from the net revenue on a parity with, or subordinate to, the lien and pledge securing the obligations being issued, subject to any condition provided by the ordinance, resolution, or other proceeding.

(c) The ordinance, resolution, or other proceeding may:

(1) provide that surplus net revenue received from the operation of the island property may be used for the payment of the principal of and interest on any obligations payable from taxes issued by the municipality under this chapter; and

(2) contain other provisions and covenants.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.059. REVIEW AND APPROVAL OF CONTRACTS RELATING TO REVENUE OBLIGATIONS. (a) If revenue obligations issued under this chapter state that they are secured by a pledge of the proceeds from a contract, a copy of the contract and of the proceedings authorizing the contract must be submitted to the attorney general for approval.

(b) The approval by the attorney general of the obligations is approval of the contract.

(c) After approval, the contract is incontestable except for forgery or fraud.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.060. SECURITY FOR AND PAYMENT OF OBLIGATIONS PAYABLE FROM REVENUE. (a) Revenue obligations issued under this chapter may be secured solely by and paid from a pledge of the net revenue derived from the operation of island property, including revenue from leases, subleases, sales, or contracts for sale entered into by the municipality or the board of trustees with respect to the island property. For purposes of this subsection, the net revenue is an amount equal to the gross revenue derived from the operation of the island property less the reasonable expenses of maintaining and operating the island property.

(b) While the principal of or interest on obligations is outstanding, the issuer shall:

(1) impose and collect charges in an amount sufficient to pay:

(A) maintenance and operation expenses of the island property;

(B) the interest on the obligations as it accrues; and

(C) the principal of the obligations as the obligations mature; and

(2) make any other payment prescribed by the ordinance or resolution authorizing or other proceeding relating to the issuance of the obligations.

(c) In addition to the security provided by Subsection (a), obligations may be secured by a trust indenture and a mortgage or deed of trust lien or other security interest on island property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.061. USE OF CERTAIN PROCEEDS. From the proceeds from the sale of obligations issued under this chapter, there may be appropriated or set aside:

(1) an amount for the payment of interest expected to accrue while an island property facility or improvement is under construction;

(2) an amount necessary to pay expenses related to the issuance, sale, and delivery of the obligations; and

(3) an amount required by the ordinance or resolution authorizing the issuance of the obligations to be deposited to the credit of a reserve or other fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.062. LEASE OR SALE OF ISLAND PROPERTY. (a) In connection with the issuance of revenue obligations, a municipality or board may lease, sublease, or sell island property to be constructed or acquired with the proceeds of the obligations.

(b) A lease, sublease, or contract of sale may contain any provision that the municipality or board considers advantageous.

(c) A lease, sublease, or contract of sale may provide for the lessee or purchaser of the island property to make payments in amounts adequate to pay the principal of and interest and premium on the obligations when they become due.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.063. ENCUMBRANCE OF ISLAND PROPERTY IMPROVEMENTS OR FACILITIES FINANCED BY OBLIGATIONS PAYABLE FROM AD VALOREM TAXES. A municipality may not encumber an island property improvement or facility financed by obligations payable from ad valorem taxes unless authorized at the election required by Section 254.052.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

SUBCHAPTER D. REFUNDING OBLIGATIONS

Sec. 254.081. APPLICABILITY OF LAW RELATING TO ORIGINAL OBLIGATIONS. The provisions of this chapter relating to original obligations apply to refunding obligations issued under this chapter to the extent the provisions can be made to apply.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.082. AUTHORITY TO ISSUE TAX REFUNDING OBLIGATIONS. The governing body of a municipality may issue tax obligations under this chapter to refund outstanding tax obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.083. AUTHORITY TO ISSUE REVENUE REFUNDING OBLIGATIONS. The governing body of a municipality or a board with the approval of the governing body may issue revenue obligations under this chapter to refund outstanding revenue obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.084. TERMS OF ISSUANCE OF REVENUE REFUNDING OBLIGATIONS. (a) Revenue refunding obligations may:

(1) be combined with new or original revenue obligations into one series or issue;

(2) be issued to refund obligations of more than one series

or issue;

(3) combine the pledges securing the obligations to be refunded to secure the revenue refunding obligations; or

(4) be secured by a pledge of other or additional net revenue.

(b) A revenue refunding obligation may bear interest at a rate higher than that of the obligation to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.085. REGISTRATION OF REFUNDING OBLIGATIONS BY COMPTROLLER. (a) Except as provided by Subsection (b), the comptroller shall register refunding obligations on surrender and cancellation of the obligations to be refunded.

(b) The comptroller shall register refunding obligations without the surrender and cancellation of the obligations to be refunded if:

(1) the ordinance or resolution authorizing the issuance of the refunding obligations requires that:

(A) the obligations be sold at public or private sale; and

(B) the proceeds from the sale be deposited:

(i) in a place where the obligations to be refunded are payable; or

(ii) with the comptroller; and

(2) the refunding obligations are issued in an amount sufficient to pay the principal of and interest on the obligations to be refunded to the option or maturity date of the obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

Sec. 254.086. ESCROW AGREEMENT. (a) The proceeds from revenue refunding obligations that are deposited as provided by Section 254.085(b)(1)(B) shall be held under an escrow agreement so that the proceeds and interest earned on the proceeds will be available to pay the principal of and interest on the obligations to be refunded as each becomes due.

(b) The escrow agreement may provide that the proceeds may, until needed to pay principal and interest, be invested in direct

obligations of the United States.

(c) Interest earned on an investment described by Subsection (b) may be:

(1) pledged to the payment of the principal of and interest on the obligations to be refunded or the refunding obligations; or

(2) considered as revenue of the island property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 9, eff. Sept. 1, 1999.

CHAPTER 255. CONVERSION OF PROPERTY FOR CERTAIN PURPOSES

Sec. 255.001. SPECIAL HEARING AND NOTICE REQUIREMENTS FOR CONVERSION OF PROPERTY TO HOUSE HOMELESS INDIVIDUALS. (a) Except as provided by Subsection (e), a municipality's governing body may not approve the conversion of a property under the municipality's control to provide housing to homeless individuals unless the governing body holds a public hearing not less than 90 days before the municipality begins the conversion. The governing body must hold the hearing at a location within a one-mile radius of the property.

(b) Not later than 36 hours before a public hearing required under Subsection (a) is held, a municipality's governing body must provide notice of the hearing by mail to each residence and business located within a one-mile radius of the property described by that subsection.

(c) If a municipality's governing body fails to comply with this section, an individual who is entitled to notice under Subsection (b) may bring an action for injunctive relief in a district court in the county in which the property described by Subsection (a) is located to prevent the conversion of the property.

(d) In the event of a conflict between this chapter and a provision in a municipality's charter relating to the conversion or notice of the conversion of a property described by Subsection (a), this chapter controls.

(e) This section does not apply to the conversion of a property to provide temporary shelter or housing during a natural disaster, declared state of emergency, or other life-threatening public emergency.

Added by Acts 2025, 89th Leg., R.S., Ch. 178 (S.B. 617), Sec. 1, eff. September 1, 2025.

SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY

CHAPTER 261. COUNTY RIGHT OF EMINENT DOMAIN

Sec. 261.001. RIGHT OF EMINENT DOMAIN. (a) A county may exercise the right of eminent domain to condemn and acquire land, an easement in land, or a right-of-way if the acquisition is necessary for the construction of a jail, courthouse, hospital, or library, or for another public use authorized by law.

(b) The right of eminent domain conferred by this section extends to public or private land, but not to land used for cemetery purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 4, eff. September 1, 2011.

Sec. 261.002. PROCEDURE. The condemnation proceedings must be instituted in the name of the county and under the direction of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 261.003. APPEAL. (a) An appeal from a finding and assessment of damages made as prescribed by Chapter 21, Property Code, does not suspend work by the county that relates to the land the county seeks to acquire.

(b) A county is not required to give a bond in an appealed case.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 262. PURCHASING AND CONTRACTING AUTHORITY OF COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 262.001. APPOINTMENT OF AGENT TO MAKE CONTRACTS. (a) The commissioners court of a county may appoint an agent to make a contract on behalf of the county for:

(1) erecting or repairing a county building;

(2) supervising the erecting or repairing of a county

building; or

(3) any other purpose authorized by law.

(b) A contract or other act of an agent appointed under this section that is properly executed on behalf of the county and is within the agent's authority binds the county to the contract for all purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.002. AUTHORITY TO PURCHASE ROAD EQUIPMENT AND TIRES THROUGH COMPTROLLER. (a) The commissioners court of a county may purchase through the comptroller road machinery and equipment, tires, and tubes to be used by the county.

(b) The commission must purchase an item under this section on competitive bids and in accordance with any rules of the commission.

(c) A purchase under this section must be made on the requisition of the commissioners court. When the court sends the requisition to the commission, the court must include with the requisition a general description of the item desired and a certification of the funds available to pay for the item.

(d) The commission may adopt rules to carry out the purpose of this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.101, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.102, eff. September 1, 2007.

Sec. 262.003. SMALL, SOLE-SOURCE PURCHASE EXEMPT FROM COMPETITIVE BIDDING. (a) Any law that requires a county to follow a competitive procurement procedure in making a purchase requiring the expenditure of $100,000 or less does not apply to the purchase of an item available for purchase from only one supplier.

(b) If a county makes a purchase covered by Subsection (a), the county auditor or other appropriate county officer or employee may not refuse payment for the purchase because a competitive bidding procedure was not followed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 12, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 115, Sec. 4, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 3, eff. June 19, 2009.

Acts 2025, 89th Leg., R.S., Ch. 256 (S.B. 1173), Sec. 5, eff. September 1, 2025.

Sec. 262.004. CONTRACT AND OTHER INSTRUMENTS VEST RIGHTS IN COUNTY; SUIT ON CONTRACT OR OTHER INSTRUMENT. (a) A note, bond, bill, contract, covenant, agreement, or writing in which a person is bound to a county, to the court or commissioners of a county, or to another person for the payment of a debt or for the performance of a duty or another action for the county vests in the county the same right, interest, or action that would vest in any other person if the contract had been made with that other person.

(b) A suit may be initiated and prosecuted on an instrument covered by Subsection (a) in the name of a county, or in the name of the person to whom the document was made for the use of the county, in the same manner that any other person may sue on a similar document made to that person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.005. APPLICATION OF OTHER LAW. The purchasing requirements of Section 361.426, Health and Safety Code, apply to county purchases made under this chapter.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 18, eff. Sept. 1, 1991.

Sec. 262.006. LEAST COST REVIEW PROGRAM. The commissioners court of a county may establish a least cost review program for public improvements to be constructed by the use of personnel, equipment, or facilities of the county that may exceed a cost of:

(1) $100,000; or

(2) an amount less than $100,000 as determined by the commissioners court.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 13.11(f), eff. Sept. 1, 1999.

Sec. 262.007. SUIT AGAINST COUNTY ARISING UNDER CERTAIN CONTRACTS. (a) A county that is a party to a written contract for engineering, architectural, or construction services or for goods related to engineering, architectural, or construction services may sue or be sued, plead or be impleaded, or defend or be defended on a claim arising under the contract. A suit on the contract brought by a county shall be brought in the name of the county. A suit on the contract brought against a county shall identify the county by name and must be brought in a state court in that county.

(b) The total amount of money recoverable from a county on a claim for breach of the contract is limited to the following:

(1) the balance due and owed by the county under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work required to carry out the contract;

(3) reasonable and necessary attorney's fees that are equitable and just; and

(4) interest as allowed by law.

(c) An award of damages under this section may not include:

(1) consequential damages, except as allowed under Subsection (b)(1);

(2) exemplary damages; or

(3) damages for unabsorbed home office overhead.

(d) This section does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity.

(e) This section does not waive sovereign immunity to suit in federal court.

Acts 2003, 78th Leg., ch. 1203, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER B. PURCHASING AGENTS

Sec. 262.011. PURCHASING AGENTS. (a) A board composed as

provided by this subsection, by majority vote, may appoint a suitable person to act as the county purchasing agent. In a county with a population of 150,000 or less, the board is composed of the judges of the district courts in the county and the county judge. In any other county, the board is composed of three judges of the district courts in the county and two members of the commissioners court of the county unless the county has fewer than three district court judges, in which case the board is composed of one district court judge and one member of the commissioners court. If members of the board who are district judges must be selected, the selection is made by a majority vote of all the district judges in a county having more than one district judge. If members of the board who are members of the commissioners court must be selected, the selection is made by a majority vote of the commissioners court. The term of office of the county purchasing agent is two years.

(b) The board may remove the county purchasing agent from office.

(c) A person appointed under this section must execute a bond in the amount of $5,000, payable to the county, conditioned that the individual will faithfully perform the duties of county purchasing agent.

(d) The county purchasing agent shall purchase all supplies, materials, and equipment required or used, and contract for all repairs to property used, by the county or a subdivision, officer, or employee of the county, except purchases and contracts required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials, or equipment or make the contract for repairs.

(e) The county purchasing agent shall supervise all purchases made on competitive bid and shall see that all purchased supplies, materials, and equipment are delivered to the proper county officer or department in accordance with the purchase contract.

(f) A purchase made by the county purchasing agent shall be paid for by an electronic transfer, check, or warrant drawn by the county auditor on funds in the county treasury in the manner provided by law. The county auditor may not draw and the county treasurer may not honor an electronic transfer, check, or warrant for a purchase unless the purchase is made by the county purchasing agent or on competitive bid as provided by law.

(g) The county purchasing agent may cooperate with the

purchasing agent of a municipality in the county to purchase any item in volume as may be necessary. The county treasurer shall honor an electronic transfer, check, or warrant drawn by the county auditor to reimburse the municipality's purchasing agent making the purchase for the county.

(h) The county purchasing agent is not required to make purchases for a municipal-county hospital or other joint undertaking of the municipality and county.

(i) On July 1 of each year, the county purchasing agent shall file with the county auditor and each of the members of the board that appoints the county purchasing agent an inventory of all the property on hand and belonging to the county and each subdivision, officer, and employee of the county. The county auditor shall carefully examine the inventory and make an accounting for all property purchased or previously inventoried and not appearing in the inventory.

(j) To prevent unnecessary purchases, the county purchasing agent, with the approval of the commissioners court, shall transfer county supplies, materials, and equipment from a subdivision, department, officer, or employee of the county that are not needed or used to another subdivision, department, officer, or employee requiring the supplies or materials or the use of the equipment. The county purchasing agent shall furnish to the county auditor a list of transferred supplies, materials, and equipment.

(k) The board that appoints the county purchasing agent shall set the salary of the agent in an amount not less than $5,000 a year, payable in equal monthly installments or by any other distribution at the option of the county. The salary shall be paid by an electronic transfer, check, or warrant drawn on funds in the county treasury.

(l) The county purchasing agent may have assistants to aid in the performance of the agent's duties. A person who is authorized by the county purchasing agent to use a county purchasing card while making a county purchase is considered an assistant of the county purchasing agent to the extent the person complies with the rules and procedures prescribed for the use of county purchasing cards as adopted by the county purchasing agent under Subsection (o). The county purchasing agent and assistants may have any help, equipment, supplies, and traveling expenses that are approved and considered advisable by the board that appointed the agent.

(m) A person, including an officer, agent, or employee of a

county or of a subdivision or department of a county, commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than $10 or more than $100. Each act in violation of this section is a separate offense.

(n) This section applies to all purchases of supplies, materials, and equipment for the use of the county and its officers, including purchases made by officers paid out of fees of office or otherwise, regardless of whether the purchase contract is made by the commissioners court or any other officer authorized to bind the county by contract. An officer making a purchase out of fees of office in violation of this section may not deduct the amount of the purchase from the amount of any fees of office due the county.

(o) The county purchasing agent shall adopt the rules and procedures necessary to implement the agent's duties under this section subject to approval by the commissioners court. Notwithstanding Subsection (f) or other law, rules and procedures adopted under this subsection may include rules and procedures for persons to use county purchasing cards to pay for county purchases under the direction and supervision of the county purchasing agent. Procedures for use of purchasing cards may not avoid the competitive bidding requirements of this chapter or other requirements of county financial law.

(p) During each two-year term of office, a county purchasing agent shall complete not less than 25 hours in courses relating to the duties of the county purchasing agent. The courses must be:

(1) accredited by a nationally recognized college or university;

(2) recognized by a national purchasing association, such as the National Association of Purchasing Management; or

(3) courses offered by state agencies, or by state professional associations, related to purchasing.

(q) An electronic transfer under this chapter must provide the same level of internal controls and statutory authorizations as required for a check or warrant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(q), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 561, Sec. 1, 2, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1250, Sec. 5, 6, eff. Sept. 1, 1989; Acts 1991, 72nd

Leg., ch. 16, Sec. 13.02(a), (d), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 874, Sec. 4, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 367, Sec. 1, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 505, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 57, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 321, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 1, eff. September 1, 2011.

Sec. 262.0115. PURCHASING AGENTS IN COUNTIES WITH POPULATION OF MORE THAN 100,000. (a) In a county with a population of more than 100,000, the commissioners court may employ a person to act as county purchasing agent. However, this section does not apply to a county that has appointed a purchasing agent under Section 262.011 and that has not abolished the position as authorized by law.

(b) A purchasing agent employed under this section serves at the pleasure of the commissioners court.

(c) The commissioners court may employ other persons necessary to assist the purchasing agent in performing the agent's functions.

(d) Under the supervision of the commissioners court, the purchasing agent shall carry out the functions prescribed by law for a purchasing agent under Section 262.011 and for any administrative function of the county auditor in regard to county purchases and contracts and shall administer the procedures prescribed by law for notice and public bidding for county purchases and contracts.

(e) A county that has established the position of county purchasing agent under this section may abolish the position at any time. On the abolition of the position, the county auditor shall assume the functions previously performed by the purchasing agent regarding the notice for and opening of competitive bids or proposals under this chapter and Chapter 271.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 11(g), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 63, Sec. 1, eff. May 9, 1995; Acts 1999, 76th Leg., ch. 369, Sec. 1, eff. May 29, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 2, eff. September 1, 2011.

Sec. 262.012. COUNTY AUDITORS AS PURCHASING AGENTS IN CERTAIN COUNTIES. (a) The commissioners court of a county that employs a county auditor jointly with one or more counties under Section 84.008 may require the auditor to act as the purchasing agent for the county, in addition to performing the regular duties of the auditor as required by law.

(b) In a county with a population of 41,680 to 42,100, the county auditor shall act as the purchasing agent for the county in addition to performing the regular duties of the auditor as required by law.

(c) This section applies only to a county in which a county purchasing agent has not been appointed under Section 262.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 561, Sec. 3, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1250, Sec. 7, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 204, Sec. 1, eff. Sept. 1, 1991.

SUBCHAPTER C. COMPETITIVE BIDDING IN GENERAL

Sec. 262.021. SHORT TITLE. This subchapter may be cited as the County Purchasing Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.022. DEFINITIONS. In this subchapter:

(1) "Bond funds" means money in the county treasury received from the sale of bonds, and proceeds of bonds that have been voted but that have not been issued and delivered.

(2) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(3) "Current funds" means funds in the county treasury that are available in the current tax year, revenue that may be anticipated with reasonable certainty to come into the county treasury during the current tax year, and emergency funds.

(4) "High technology item" means a service, equipment, or good of a highly technical nature, including:

(A) data processing equipment and software and firmware used in conjunction with data processing equipment;

(B) telecommunications, radio, and microwave systems;

(C) electronic distributed control systems, including building energy management systems; and

(D) technical services related to those items.

(5) "Item" means any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items. The term does not include professional services as defined by Section 2254.002, Government Code.

(5-a) "Lowest and best" means a bid or offer providing the best value considering associated direct and indirect costs, including transport, maintenance, reliability, life cycle, warranties, and customer service after a sale.

(5-b) "Normal purchasing practice" means:

(A) an accepted custom, practice, or standard for government procurement in the state; or

(B) a practice recognized by a national purchasing association regarding the purchase of a particular good or service.

(6) "Purchase" means any kind of acquisition, including by a lease or revenue contract.

(7) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(9) "Time warrant" means any warrant issued by a county that is not payable out of current funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 59(b), eff. Aug. 28, 1989; Acts 1989, 71st. Leg., ch. 1250, Sec. 8(a), eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 3, eff. September 1, 2011.

Sec. 262.0225. ADDITIONAL COMPETITIVE PROCEDURES. (a) In the procedure for competitive bidding under this subchapter, the

commissioners court of the county shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A county shall receive bids or proposals under this subchapter in a fair and confidential manner.

(c) A county may receive bids or proposals under this subchapter in hard-copy format or through electronic transmission. Except as provided by Subsection (c-1), a county shall accept any bids or proposals submitted in hard-copy format.

(c-1) The commissioners court of a county may by order require submission of bids or proposals under this subchapter through electronic transmission if the county makes available all technology necessary to submit a bid or proposal through electronic transmission to any person who submits a hard-copy bid or proposal in person.

(d) A county that complies in good faith with the competitive bidding requirements of this chapter and receives no responsive bids for an item may procure the item under Section 262.0245.

Added by Acts 2001, 77th Leg., ch. 1063, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 4, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 11 (H.B. 362), Sec. 1, eff. May 15, 2021.

Sec. 262.023. COMPETITIVE REQUIREMENTS FOR CERTAIN PURCHASES. (a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding $100,000, the commissioners court of the county must:

(1) comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Chapter 2269, Government Code.

(b) The requirements established by Subsection (a) apply to contracts for which payment will be made from current funds or bond funds or through anticipation notes authorized by Chapter 1431,

Government Code, or time warrants. Contracts for which payments will be made through certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271).

(b-1) A county that complies with a method described by Chapter 2269, Government Code, as provided by Subsection (a)(3), to enter into a contract for which payment will be made through anticipation notes authorized by Chapter 1431, Government Code, may not issue anticipation notes for the payment of that contract in an amount that exceeds the lesser of:

(1) 20 percent of the county's budget for the fiscal year in which the county enters into the contract; or

(2) $10 million.

(c) In applying the requirements established by Subsection (a), all separate, sequential, or component purchases of items ordered or purchased, with the intent of avoiding the requirements of this subchapter, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract. In applying this provision to the purchase of office supplies, separate purchases of supplies by an individual department are not considered to be part of a single purchase and single contract by the county if a specific intent to avoid the requirements of this subchapter is not present.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 57(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1250, Sec. 9, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 13.02(b), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 757, Sec. 13, 38, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 442, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 505, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 436, Sec. 4, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 1063, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1409, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 12.004, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 689 (H.B. 1764), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 4.04, eff.

September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(23), eff. September 1, 2013.

Acts 2025, 89th Leg., R.S., Ch. 256 (S.B. 1173), Sec. 6, eff. September 1, 2025.

Sec. 262.0235. PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS FOR ELECTRONIC BIDS OR PROPOSALS. The county purchasing agent, before receiving electronic bids or proposals, shall adopt rules in conformance with Section 262.011(o) to ensure the identification, security, and confidentiality of electronic bids or proposals.

Added by Acts 2001, 77th Leg., ch. 1063, Sec. 3, eff. Sept. 1, 2001.

Sec. 262.024. DISCRETIONARY EXEMPTIONS. (a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

(1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;

(2) an item necessary to preserve or protect the public health or safety of the residents of the county;

(3) an item necessary because of unforeseen damage to public property;

(4) a personal or professional service;

(5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;

(6) any land or right-of-way;

(7) an item that can be obtained from only one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B) films, manuscripts, or books;

(C) electric power, gas, water, and other utility services; and

(D) captive replacement parts or components for equipment;

(8) an item of food;

(9) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government;

(10) any work performed under a contract for community and economic development made by a county under Section 381.004; or

(11) vehicle and equipment repairs.

(b) The renewal or extension of a lease or of an equipment maintenance agreement is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption and if:

(1) the lease or agreement has gone through the competitive bidding procedure within the preceding year;

(2) the renewal or extension does not exceed one year; and

(3) the renewal or extension is the first renewal or extension of the lease or agreement.

(c) If an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.

(d) The exemption granted under Subsection (a)(8) of this section shall apply only to the sealed competitive bidding requirements on food purchases. Counties shall solicit at least three bids for purchases of food items by telephone or written quotation at intervals specified by the commissioners court. Counties shall award food purchase contracts to the responsible bidder who submits the lowest and best bid or shall reject all bids and repeat the bidding process, as provided by this subsection. The purchasing officer taking telephone or written bids under this subsection shall maintain, on a form approved by the commissioners court, a record of all bids solicited and the vendors contacted. This record shall be kept in the purchasing office for a period of at

least one year or until audited by the county auditor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 59(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 962, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1001, Sec. 2, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1060, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 13.03, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 442, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1065, Sec. 1, eff. June 15, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1272 (H.B. 3517), Sec. 3, eff. September 1, 2007.

Sec. 262.0241. MANDATORY EXEMPTIONS: CERTAIN RECREATIONAL SERVICES. (a) This section applies only to a county that:

(1) has a population of 20,000 or less; and

(2) owns not more than one golf course open for public use.

(b) The competitive bidding and competitive proposal procedures prescribed by this subchapter do not apply to the purchase of:

(1) management services for:

(A) a county-owned golf course; or

(B) a retail facility owned by the county and located on the premises of the golf course; and

(2) landscape maintenance services for a county-owned golf course.

Added by Acts 2001, 77th Leg., ch. 1065, Sec. 2, eff. June 15, 2001.

Sec. 262.0245. COMPETITIVE PROCUREMENT PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS OR COMMISSIONERS COURT. A county purchasing agent or, in a county without a purchasing agent, the commissioners court shall adopt procedures that provide for competitive procurement, to the extent practicable under the circumstances, for the county purchase of an item that is not subject to competitive procurement or for which the county receives no responsive bid.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.02(c), eff. Aug. 26, 1991. Renumbered from Sec. 262.0241 by Acts 2001, 77th Leg., ch.

1065, Sec. 2, eff; June 15, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 5, eff. June 19, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 5, eff. September 1, 2011.

Sec. 262.025. COMPETITIVE BIDDING NOTICE. (a) A notice of a proposed purchase must be published at least once a week for two consecutive weeks in a newspaper of general circulation in the county, with the first day of publication occurring at least 14 days before the date of the bid opening. If there is no newspaper of general circulation in the county, the notice must be posted in a prominent place in the courthouse for 14 days before the date of the bid opening. Notice published in a newspaper must include:

(1) a general statement of the proposed purchase;

(2) the name and telephone number of the purchasing agent; and

(3) the county website address, if any.

(a-1) Subsection (a) does not require more than two notices in one newspaper or limit the county from providing additional notice for longer periods or in more locations.

(b) The notice must include:

(1) the specifications describing the item to be purchased or a statement of where the specifications may be obtained;

(2) the time and place for receiving and opening bids and the name and position of the county official or employee to whom the bids are to be sent;

(3) whether the bidder should use lump-sum or unit pricing;

(4) the method of payment by the county; and

(5) the type of bond required by the bidder.

(c) If any part of the payment for a proposed purchase will be made through time warrants, the notice also must include a statement of the maximum amount of time warrant indebtedness, the rate of interest on the time warrants, and the maximum maturity date of the time warrants.

(d) In a county with a population of 3.3 million or more, the county and any district or authority created under Article XVI, Section 59, of the Texas Constitution of which the governing body is

the commissioners court may require that a minimum of 25 percent of the work be performed by the bidder and, notwithstanding any other law to the contrary, may establish financial criteria for the surety companies that provide payment and performance bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1019, Sec. 1, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 669, Sec. 78, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 6, eff. September 1, 2011.

Sec. 262.0255. ADDITIONAL NOTICE AND BOND PROVISIONS RELATING TO PURCHASE OF CERTAIN EQUIPMENT. (a) A notice of a proposed purchase of earth-moving, material-handling, road maintenance, or construction equipment under Section 262.025 may include a request for information about the costs of the repair, maintenance, or repurchase of the equipment.

(b) The commissioners court may require the bidder to furnish, to the county in a contract for the purchase of the equipment, a bond to cover the repurchase costs of the equipment.

(c) A commissioners court purchasing personal property under Section 271.083 of this code or Section 791.025, Government Code, may negotiate with a vendor awarded a cooperative contract under those sections an agreement for the vendor to purchase or accept as trade used equipment owned by the county.

Added by Acts 1991, 72nd Leg., ch. 416, Sec. 1, eff. Sept. 1, 1991.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 7, eff. September 1, 2011.

Sec. 262.0256. PRE-BID CONFERENCE FOR CERTAIN COUNTIES OR A DISTRICT GOVERNED BY THOSE COUNTIES. (a) The commissioners court of the county or the governing body of a district or authority created under Section 59, Article XVI, Texas Constitution, if the governing body is the commissioners court of the county in which the district is located, may require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference

conducted for the purpose of discussing contract requirements and answering questions of prospective bidders.

(b) After a conference is conducted under Subsection (a), any additional required notice for the proposed purchase may be sent by certified mail, return receipt requested, only to prospective bidders who attended the conference. Notice under this subsection is not subject to the requirements of Section 262.025.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 8, eff. September 1, 2011.

Sec. 262.026. OPENING OF BIDS. (a) The county official who makes purchases for the county shall open the bids on the date specified in the notice. The date specified in the notice may be extended if the commissioners court determines that the extension is in the best interest of the county. All bids, including those received before an extension is made, must be opened at the same time. The commissioners court may adopt an order that delegates the authority to make extensions under this subsection to the county official who makes purchases for the county.

(b) Opened bids shall be kept on file and available for inspection by anyone desiring to see them until the first anniversary of the date of opening. Opened bids are subject to disclosure under Chapter 552, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 505, Sec. 3, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 9, eff. September 1, 2011.

Sec. 262.027. AWARDING OF CONTRACT. (a) The officer in charge of opening the bids shall present them to the commissioners court in session. Except as provided by Subsection (e), the court shall:

(1) award the contract to the responsible bidder who submits the lowest and best bid; or

(2) reject all bids and publish a new notice.

(b) If two responsible bidders submit the lowest and best bid, the commissioners court shall decide between the two by drawing lots

in a manner prescribed by the county judge.

(c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given:

(1) notice of the proposed award; and

(2) an opportunity to appear before the commissioners court and present previously unconsidered evidence concerning the lower bid as best, which may include evidence of the bidder's responsibility.

(d) In determining the lowest and best bid for a contract for the purchase of earth-moving, material-handling, road maintenance, or construction equipment, the commissioners court may consider the information submitted under Section 262.0255.

(e) In determining the lowest and best bid for a contract for the purchase of road construction material, the commissioners court may consider the pickup and delivery locations of the bidders and the cost to the county of delivering or hauling the material to be purchased. The commissioners court may award contracts for the purchase of road construction material to more than one bidder if each of the selected bidders submits the lowest and best bid for a particular location or type of material.

(f) Notwithstanding any other requirement of this section, the commissioners court may condition acceptance of a bid on compliance with a requirement for attendance at a mandatory pre-bid conference under Section 262.0256.

(g) If after the award the successful bidder fails to qualify for required bonds, or is otherwise unable to meet the requirements of the award, the commissioners court may award the contract to the next bidder in order of ranking as lowest and best bid.

(h) Before a contract is awarded, a bidder must give written notice to the officer authorized to open bids that the bidder intends to protest an award of the contract under Subsection (c). This subsection does not limit the ability of a bidder to speak at a public meeting of the commissioners court under rules established by the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 416, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 127, Sec. 1, eff. May 11, 1993; Acts 2001, 77th Leg., ch. 255, Sec. 2, eff. May 22, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 10, eff. September 1, 2011.

Sec. 262.0271. CONSIDERATION OF HEALTH INSURANCE PROVIDED BY BIDDER. (a) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 285, Sec. 24, eff. September 1, 2011.

(b) In purchasing items under this chapter through a competitive bidding process, if a county receives one or more bids from a bidder who provides reasonable health insurance coverage to its employees and requires a subcontractor the bidder intends to use to provide reasonable health insurance coverage to the subcontractor's employees and whose bid is within five percent of the lowest and best bid price received by the county from a bidder who does not provide or require reasonable health insurance coverage, the commissioners court of the county may give preference to the bidder who provides and requires reasonable health insurance coverage.

(c) This section does not prohibit a county from rejecting all bids.

Added by Acts 2005, 79th Leg., Ch. 1299 (H.B. 2695), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 11, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 24, eff. September 1, 2011.

Sec. 262.0275. SAFETY RECORD OF BIDDER CONSIDERED. In determining who is a responsible bidder, the commissioners court may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:

(1) the commissioners court has adopted a written definition and criteria for accurately determining the safety record of a bidder;

(2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder

may be considered in determining the responsibility of the bidder; and

(3) the determinations are not arbitrary and capricious.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 58(c), eff. Aug. 28, 1989.

Sec. 262.0276. CONTRACT WITH PERSON INDEBTED TO COUNTY. (a) By an order adopted and entered in the minutes of the commissioners court and after notice is published in a newspaper of general circulation in the county, the commissioners court may adopt rules permitting the county to refuse to enter into a contract or other transaction with a person who owes a debt to the county.

(b) It is not a violation of this subchapter for a county, under rules adopted under Subsection (a), to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the county.

(c) In this section, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the county requiring approval by the commissioners court.

(d) In this section, "debt" includes delinquent taxes, fines, fees, and delinquencies arising from written agreements with the county.

Added by Acts 2003, 78th Leg., ch. 156, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 12, eff. September 1, 2011.

Sec. 262.028. LUMP-SUM OR UNIT PRICE METHOD. A purchase may be proposed on a lump-sum or unit price basis. If the county chooses to use unit pricing in its notice, the information furnished bidders must specify the approximate quantities estimated on the best available information, but the compensation paid the bidder must be based on the actual quantities purchased.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.029. TIME WARRANT ELECTION. If before the date tentatively set for the authorization of the issuance of time warrants applying to a contract covered by this subchapter or if before that authorization a petition signed by at least five percent of the registered voters of the county is filed with the county clerk protesting the issuance of the time warrants, the county may not issue the time warrants unless the issuance is approved at an election ordered and conducted in the manner provided for county bond elections under Chapter 1251, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.291, eff. Sept. 1, 2001.

Sec. 262.0295. ALTERNATIVE MULTISTEP COMPETITIVE PROPOSAL PROCEDURE. (a) (1) If the county official who makes purchases for the county determines that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, the official shall notify the commissioners court of such determination.

(2) Upon a finding by the commissioners court that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, after a notification of such determination by the county official who makes purchases for the county, the county official who makes purchases for the county may use the multistep competitive proposal procedure provided by this section.

(3) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 285, Sec. 24, eff. September 1, 2011.

(b) Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure, except that the notice may include a general description of the item to be purchased, instead of the specifications describing the item or a statement of where the specifications may be obtained, and may request the submission of unpriced proposals.

(c) On the date specified in the notice, the county official shall open the proposals and, within seven days after that date,

solicit by mailed request priced bids from the persons who submitted proposals and who qualified under the criteria stated in the first solicitation.

(d) Within 30 days after the date the unpriced proposals are opened under Subsection (c), the county official shall present the priced bids to the commissioners court. The award of the contract shall be made to the responsible offeror whose bid is determined to be the lowest and best evaluated offer resulting from negotiation. All proposals and bids that have been submitted shall be available and open for public inspection after the contract is awarded.

(e) As provided in the request for proposals and under rules adopted by the commissioners court, discussion may be conducted with responsible offerors who submit priced bids determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

Added by Acts 1989, 71st Leg., ch. 1250, Sec. 10, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 13, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 24, eff. September 1, 2011.

Sec. 262.030. ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE FOR CERTAIN GOODS AND SERVICES. (a) Except for Subsection (d) of this section, the competitive proposal procedure provided by this section may be used for the purchase of insurance, high technology items, and the following special services:

(1) landscape maintenance;

(2) travel management; or

(3) recycling.

(b) Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure. The request for proposals must specify the relative importance of price and other evaluation factors. The award of the contract shall

be made to the responsible offeror whose proposal is determined to be the lowest and best evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

(c) If provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. All proposals that have been submitted shall be available and open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

(d) A county in which a purchasing agent has been appointed under Section 262.011 or employed under Section 262.0115 may use the competitive proposal purchasing method authorized by this section for the purchase of insurance or high technology items. In addition, the method may be used to purchase other items when the county official who makes purchases for the county determines, with the consent of the commissioners court, that it is in the best interest of the county to make a request for proposals.

(e) As provided in the request for proposals and under rules adopted by the commissioners court, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 59(d), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 464, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 746, Sec. 3, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(85), eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 640 (H.B. 2694), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1272 (H.B. 3517), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1272 (H.B. 3517), Sec. 5, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 14, eff. September 1, 2011.

Sec. 262.0305. MODIFICATION AFTER AWARD. (a) After award of a contract but before the contract is made, the county official who makes purchases for the county may negotiate a modification of the contract if the modification is in the best interests of the county and does not substantially change the scope of the contract or cause the contract amount to exceed the next lowest bid.

(b) For the modified contract to be effective, the commissioners court must approve the contract.

Added by Acts 1989, 71st Leg., ch. 1250, Sec. 11, eff. Sept. 1, 1989.

Sec. 262.031. CHANGES IN PLANS AND SPECIFICATIONS. (a) If it becomes necessary to make changes in plans, specifications, or proposals after a contract is made or if it becomes necessary to increase or decrease the quantity of items purchased, the commissioners court may make the changes. However, the total contract price may not be increased unless the cost of the change can be paid from available funds.

(b) If a change order involves an increase or decrease in cost of $50,000 or less, the commissioners court may grant general authority to an employee to approve the change orders. However, the original contract price may not be increased by more than 25 percent unless the change order is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted, or rendered after the contract was made. The original contract price may not be decreased by 18 percent or more without the consent of the contractor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 104, Sec. 1, eff. May 7, 1993; Acts 1993, 73rd Leg., ch. 891, Sec. 1, eff. June 19, 1993; Acts 1995, 74th Leg., ch. 746, Sec. 4, eff. Aug. 28, 1995.

Sec. 262.032. BID OR PERFORMANCE BOND; PAYMENT UNDER CONTRACT. (a) If the contract is for the construction of public works or is

under a contract exceeding $100,000, the bid specifications or request for proposals may require the bidder to furnish a good and sufficient bid bond in the amount of five percent of the total contract price. A bid bond must be executed with a surety company authorized to do business in this state.

(b) Within 30 days after the date of the signing of a contract or issuance of a purchase order following the acceptance of a bid or proposal and prior to commencement of the actual work, the bidder or proposal offeror shall furnish a performance bond to the county, if required by the county, for the full amount of the contract if that contract exceeds $50,000. This subsection does not apply to a performance bond required to be furnished by Chapter 2253, Government Code.

(c) If the contract is for $50,000 or less, the county may provide in the bid notice or request for proposals that no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the county.

(d) A bidder or proposal offeror whose rates are subject to regulation by a state agency may not be required to furnish a performance bond or a bid bond under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 59(e), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 109, Sec. 3, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 696, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 33, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(17), eff. Sept. 1, 1995.

Sec. 262.033. INJUNCTION. Any property tax paying citizen of the county may enjoin performance under a contract made by a county in violation of this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.034. CRIMINAL PENALTIES. (a) A county officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 262.023. An offense under this subsection is a Class B misdemeanor.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 285, Sec. 24, eff. September 1, 2011.

(c) A county officer or employee commits an offense if the officer or employee intentionally or knowingly violates this subchapter, other than by conduct described by Subsection (a). An offense under this subsection is a Class C misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1250, Sec. 12, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 15, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 24, eff. September 1, 2011.

Sec. 262.036. SELECTION AND RETENTION OF INSURANCE BROKER. (a) Notwithstanding any other provision in this chapter, a county may select an appropriately licensed insurance agent as the sole broker of record to obtain proposals and coverages for insurance that provides necessary coverage and adequate limits of coverage in all areas of risk, including public official liability, property, casualty, workers' compensation, and specific and aggregate stop-loss coverage for self-funded health care.

(b) The county may retain a broker of record selected under this section only on a fee basis paid by the county. A broker of record retained in this manner may not directly or indirectly receive any other remuneration, compensation, or other form of payment from any other source for the placement of insurance business under the broker of record contract.

(c) A broker of record retained under this section may not submit any insurance carrier proposal to the county or direct any county insurance business to an insurance carrier if the broker has a business relationship or proposed business relationship with the carrier, including an appointment, unless the broker first discloses the nature of that relationship or proposed relationship, in writing, to the county.

(d) A broker who violates this section is subject to any disciplinary remedy available under Chapter 82, Insurance Code, or Section 4005.102, Insurance Code, including license revocation and

fine.

Added by Acts 2005, 79th Leg., Ch. 353 (S.B. 1214), Sec. 1, eff. June 17, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 16, eff. September 1, 2011.

Sec. 262.037. QUALIFICATION. An officer authorized to make a purchase on behalf of a county or a county department or office may not make any purchase until providing to the county judge a signed acknowledgment that the officer has read and understands this chapter. This section does not apply in a county that has appointed a purchasing agent under Subchapter B.

Added by Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 17, eff. September 1, 2011.

CHAPTER 263. SALE OR LEASE OF PROPERTY BY COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS FOR REAL PROPERTY

Sec. 263.001. SALE OR LEASE OF REAL PROPERTY. (a) The commissioners court of a county, by an order entered in its minutes, may appoint a commissioner to sell or lease real property owned by the county. The sale or lease must be made at a public auction held in accordance with this section unless this chapter provides otherwise.

(b) The appointed commissioner must publish notice of the auction before the 20th day before the date the auction is held. The notice must be published in English in a newspaper in the county in which the real property is located and in the county that owns the real property if not the same county. The notice must be published once a week for three consecutive weeks before the date the auction is held.

(c) If the real property is sold, a deed that is made on behalf of the county by the appointed commissioner in conformance with the order entered under Subsection (a) and that is properly acknowledged, proved, and recorded is sufficient to convey the county's interest in the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.002. ABANDONED SEAWALL OR HIGHWAY PROPERTY. (a) If abandoned seawall or highway right-of-way property is no longer needed for such a purpose, the county may sell or lease the property only according to the following priorities:

(1) to an abutting or adjoining landowner;

(2) to the person who originally granted the right-of-way to the county or the grantor's heirs or assigns;

(3) exclusively for public use to the United States, this state, or a municipality within the municipal boundaries of which the property is located; or

(4) at public auction in accordance with Section 263.001.

(b) A sale or lease to the public under this section is subject to any restrictions and prohibitions contained in the deed of conveyance under which the county originally acquired title to the property.

(c) Before the commissioners court of the county sells or leases the property to an abutting or adjoining landowner or to the original grantor or the grantor's heirs or assigns, the commissioners court, in addition to notice published in accordance with Section 263.001, shall appoint an appraiser to determine the fair market value and fair lease value of the property to be sold or leased. The appraiser shall report those values to the commissioner appointed to sell or lease the property under Section 263.001. The appointed commissioner may not sell or lease the property for an amount that is less than the reported fair market value or fair lease value, as the case may be.

(d) Before the commissioner sells or leases the property, the commissioner shall report to the commissioners court the amount of the proposed purchase or lease price. The commissioners court shall determine whether an offer of sale, purchase, or lease is reasonable and shall accept or reject the offer. The commissioners court may reject any offer it determines to be unreasonable.

(e) In addition to the sale price, a purchaser of abandoned seawall or highway right-of-way property must pay all costs of conducting the sale, including the appraisal fee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.003. SCHOOL LANDS. (a) The commissioners court of a county shall provide for the protection, preservation, and disposition of lands granted to the county for educational purposes.

(b) The commissioners court may dispose of land granted to the county for educational purposes only as provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.004. RESTRICTIONS, CONDITIONS, AND LIMITATIONS. (a) In a conveyance of real property, the commissioners court of a county may provide for restrictions, conditions, and limitations that it determines are necessary or proper.

(b) Each conveyance of abandoned seawall right-of-way property under Section 263.002 must contain a restriction that a structure may not be placed within 50 feet, or a greater distance determined by the commissioners court, of the landward boundary of the seawall right-of-way retained by the county.

(c) In the order and notice required by Section 263.001, the commissioners court shall give a substantial statement of any restriction, condition, or limitation to which a conveyance is subject.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.005. USE BY PUBLIC UTILITY OR COMMON CARRIER. If, at the time real property, or an interest in real property, is sold, leased, or exchanged under this subchapter, a public utility or common carrier that has the right of eminent domain is using the property for right-of-way and easement purposes, the sale, lease, exchange, conveyance, and surrender of possession of the property or interest are subject to the right of and continued use by the public utility or common carrier.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.006. EXCHANGE OF REAL PROPERTY. (a) The

commissioners court of a county, by an order entered in its minutes, may authorize the exchange of an interest in real property owned by the county for an interest in real property owned by an individual, private partnership or corporation, or other private entity, to be used for one or more public purposes for which a county otherwise may acquire land. The exchange transaction may include a partial cash payment.

(b) Except as provided by Subsection (d), before the commissioners court exchanges an interest in real property under this section, notice that the county will consider offers for an exchange of the interest in real property must be published in English in a newspaper of general circulation in the county in which the real property is located and in the county that owns the interest if not the same county. The notice must be published once a week for three consecutive weeks before the date of the exchange, with the date of the first publication being before the 20th day before the date of the exchange.

(c) The county shall obtain an appraisal of the fair market value of the interest in real property owned and being exchanged by the county, and the appraisal is conclusive for purposes of this section of the value so determined. An exchange may not be made under this section for a total consideration, including cash and interest in real property, that is less than the fair market value of the interest in real property being exchanged by the county. The commissioners court may reject any and all offers made under this section.

(d) An exchange of an interest in real property originally acquired by the county for street, right-of-way, or easement purposes as consideration for the acquisition of another interest in real property for street, right-of-way, or easement purposes is not subject to the notice requirements of Subsection (b) but is subject to the appraisal required by Subsection (c), whether or not the exchange transaction includes a partial cash payment.

(e) This section does not apply to the exchange of an interest in real property owned by a county for an interest in real property owned by the United States, this state, or a municipality or other political subdivision of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.007. SALE OR LEASE OF REAL PROPERTY THROUGH SEALED-BID PROCEDURE. (a) The commissioners court of a county may adopt a procedure by which the county may sell or lease through a sealed-bid or sealed-proposal procedure any real property, including space in a building, owned by the county.

(b) The procedure must include a requirement that the county publish, before a sale or lease is made, a notice of its intent to sell or lease, as appropriate, the real property. The notice must:

(1) be published in a newspaper of general circulation in the county the commissioners court represents and, if the real property is located in another county, in a newspaper of general circulation in that other county;

(2) be published on two dates, with the date of the second publication occurring before the 14th day before the date the award of the sale or lease is made;

(3) include a description of the real property, including its location; and

(4) include a description of the procedure by which sealed bids or sealed proposals for the sale or lease may be submitted.

(c) Before selling property under this section, the commissioners court shall:

(1) obtain an appraisal of the property's fair market value; and

(2) determine a minimum bid amount, based on the appraisal.

(d) Under the procedure, the commissioners court may reject any and all bids submitted.

(e)(1) The commissioners court of a county may lease real property owned or controlled by the county that was formerly owned or controlled by the Texas Department of Mental Health and Mental Retardation to a federal, state, or local government entity for any purpose or to a nonprofit organization that is exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)), to conduct health and human service activities or such other activities which the commissioners court finds to be in the public interest, without using the sealed-bid or sealed-proposal process described in Subsection (a) and without using any other competitive bidding process which would otherwise be required by law.

(2) The commissioners court of a county with a population of 2.1 million or more that contains two or more municipalities with

a population of 350,000 or more may lease real property owned or controlled by the county to a for-profit entity to conduct health and human service activities which the commissioners court finds to be in the public interest, without using the sealed-bid or sealed-proposal process described in Subsection (a) and without using any other competitive bidding process which would otherwise be required by law.

(3) Except as provided by Subdivision (4), a commissioners court of a county that chooses to lease under this subsection shall declare its intent to do so through written notice posted in the same place and manner as the commissioners court posts its regular meeting agenda not later than 30 days prior to the beginning of the lease period. In setting the terms and conditions of the lease, including but not limited to the amount of the lease payment, the commissioners court may consider local business custom regarding leases and the reasonable market value of the leasehold, but the commissioners court is not bound thereby and may also consider the extent to which the provision of services or the other activities to be performed by the lessee will benefit the public. This subsection does not limit the ability of a commissioners court to enter into interlocal agreements, contracts, or any other arrangement permitted by law.

(4) The 30-day posting period provided by Subdivision (3) does not apply to a lease under Subdivision (1) or (2) if:

(A) the duration of the lease is 95 days or less; and

(B) the lease is to provide short-term emergency disaster relief services to persons as a result of a disaster in the county or to evacuees from another area as a result of an emergency evacuation from that area.

(f) The procedure authorized by this section is an alternative procedure to the procedure authorized by Section 272.001.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 60(a), eff. Aug. 28, 1989. Amended by Acts 1990, 71st Leg., 6th C.S., ch. 13, Sec. 1, eff. June 14, 1990; Acts 1995, 74th Leg., ch. 145, Sec. 1, eff. May 19, 1995; Acts 1999, 76th Leg., ch. 14, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 138 (S.B. 336), Sec. 1, eff. May 18, 2007.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 155, eff. September 1, 2023.

Sec. 263.008. BROKER AGREEMENTS AND FEES FOR THE SALE OF REAL PROPERTY. (a) In this section, "broker" means a person licensed as a broker under Chapter 1101, Occupations Code.

(b) The commissioners court of a county may contract with a broker to sell or lease a tract of real property that is owned by the county.

(c) The commissioners court of a county may pay a fee if a broker produces a ready, willing, and able buyer or lessee to purchase or lease a tract of real property.

(d) If a contract made under Subsection (b) requires a broker to list the tract of real property for sale or lease for at least 30 days with a multiple-listing service used by other brokers in the county, the commissioners court on or after the 30th day after the date the property is listed may sell or lease the tract of real property to a ready, willing, and able buyer or lessee who is produced by any broker using the multiple-listing service and who submits the highest cash offer.

(e) The commissioners court may sell or lease a tract of real property under this section without complying with the requirements for conducting a public auction, including the requirements prescribed by Section 263.001.

Added by Acts 1991, 72nd Leg., ch. 421, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 1328, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.790, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 88 (H.B. 1288), Sec. 1, eff. May 23, 2017.

SUBCHAPTER B. DISPOSITION OF CERTAIN REAL OR PERSONAL PROPERTY

Sec. 263.051. AIRPORT LAND. (a) The commissioners court of a county may lease to any person any land acquired, by a purchase or gift, by the county for an airport and may lease any facilities on that land, unless the lease is prohibited by the terms of the grant of the land to the county. The commissioners court shall determine the conditions of the lease.

(b) The commissioners court may make contracts relating to natural resources, including oil, gas, and other minerals, owned by

the county by virtue of the ownership of airport land, including contracts for the exploration and development of those resources. The commissioners court may execute and deliver mineral deeds to or leases of all or part of the resources or rights to the resources. The commissioners court shall determine the terms of and consideration for the contract, which may include oil payments, gas payments, overriding royalties, and similar payments.

(c) For the maintenance, improvement, and operation of the airport and the facilities on the airport land, the commissioners court shall use:

(1) proceeds received from the lease of the surface of the airport land or the facilities on that land for airport purposes or purposes related to the operation of the airport; and

(2) proceeds received from charges for the use of the airport for airport purposes.

(d) If at the end of the fiscal year a part of the proceeds covered by Subsection (c) remains unspent, the commissioners court may spend that amount for any lawful purpose.

(e) The commissioners court, for any lawful purpose, may spend:

(1) proceeds from the sale of minerals or mineral rights under airport land and proceeds from the execution of mineral leases, including cash bonuses, delay rentals, and royalties; and

(2) proceeds from the lease of the surface of airport land or facilities on that land for purposes other than airport purposes or purposes other than those relating to the operation of an airport.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.052. CERTAIN LAND, HOUSING, OR FACILITIES ACQUIRED FROM UNITED STATES. (a) A county may:

(1) lease or rent any land, housing, or facility acquired under Section 270.004;

(2) establish and revise the amount charged for the lease or rental;

(3) arrange or contract for the furnishing of services or facilities for, or in connection with, that land, housing, or facility or the occupants of that land, housing, or facility;

(4) sell or exchange all or part of that land or housing; and

(5) execute oil, gas, or mineral leases for all or part of that land.

(b) The commissioners court of the county shall determine the terms of an oil, gas, or mineral lease executed under this section and the consideration for the lease, which may include oil or gas payments, overriding royalties, and similar payments.

(c) The commissioners court may execute conveyances of minerals or mineral rights and may contract for the exploration and development of minerals under all or part of the land.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.053. SALE AND SUBSEQUENT LEASE OR LICENSE OF PROPERTY IN COUNTIES WITH POPULATION OF MORE THAN 250,000. (a) This section applies only to counties with a population of more than 250,000.

(b) The commissioners court of the county may sell land, buildings, facilities, or equipment for the purpose of making contracts for the lease or rental of land, buildings, facilities, or equipment or for receiving services from others for county purposes. The commissioners court may pay regular monthly bills for utilities, such as electricity, gas, and water, for the property leased or rented or for the services received.

(c) The commissioners court of the county may enter into any for-profit or other licensing agreement with a seller of wireless communications service that may include a license to collocate wireless communications technology on property owned by the county.

(d) If a majority of the commissioners court determines that the facilities and equipment are essential for the proper administration of county government, the commissioners court may pay for the facilities and equipment and for the regular monthly bills from the general fund of the county. The commissioners court must make the payment by warrant in the manner that payments for other obligations of the county are made.

(e) A construction project initiated for a purpose authorized by this section may be awarded only by a contract that provides for the payment of the prevailing wage for all mechanics, laborers, and others employed in the construction project. The commissioners court of Tarrant County shall set the prevailing wage, which must be the same prevailing wage set by the commissioners court of that county

for all construction projects involving the expenditure of county funds.

(f) On or before the expiration of a contract made under this section, the facilities may be purchased by the county and paid for from its general fund if a majority of the commissioners court agrees that the purchase price is reasonable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 585, Sec. 1, eff. June 20, 2003.

Sec. 263.054. RELINQUISHMENT OF ABANDONED LAND. The commissioners court of a county by order may, as if there has been a failure of consideration, relinquish and convey land donated to the county for county purposes to the donor of the land or the donor's successor in title if:

(1) on the date of the order, the land has been abandoned and not used by the county for the purpose of the donation for more than 40 years; and

(2) it is shown that the donor of the land and the donor's successors in title have been in actual, continuous, open, peaceful, and adverse possession of the land for 40 years or more preceding the date of the order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.055. CONVEYANCE OF PROPERTY FROM COUNTY TO TEXAS A&I UNIVERSITY FOUNDATION, INC. (a) A county may convey surplus personal or real property of the county at a private sale to Texas A&I University Foundation, Inc., for any fair consideration approved by the commissioners court of the county.

(b) Property conveyed under this section must be used for higher education purposes in the county that conveyed the property. If at any time after the date a conveyance of real property is executed under this section the real property is used for a purpose other than a higher education purpose, ownership of the property reverts to the county that conveyed the property.

(c) For a conveyance under this section to be effective, the commissioners court must authorize the conveyance by an order entered in its minutes. The order must:

(1) describe the property to be conveyed;

(2) state the consideration to be paid; and

(3) direct the county judge of the county to execute in the name of the county a conveyance to Texas A&I University Foundation, Inc., and to promptly make the conveyance on payment of the consideration to the appropriate officer of the county.

(d) An instrument of conveyance executed by the county judge must be in the form and contain the covenants and warranties prescribed by the commissioners court.

Added by Acts 1993, 73rd Leg., ch. 393, Sec. 1, eff. Aug. 30, 1993.

SUBCHAPTER C. LEASE OR SALE OF REAL PROPERTY FOR PRIVATELY OWNED HOTEL

Sec. 263.101. APPLICATION OF SUBCHAPTER TO POPULOUS COUNTIES. This subchapter applies only to a county with a population of more than 1.3 million.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 79, eff. Sept. 1, 2001.

Sec. 263.102. LEASE. (a) The commissioners court of the county may lease real property owned by the county and air rights above that property to an individual or a private corporation or association, and make agreements with an individual or a private corporation or association for the construction, ownership, maintenance, operation, or expansion of a privately owned hotel and related facilities that are operated in conjunction with an existing convention center owned by the county.

(b) The commissioners court may lease real property under this section regardless of the property's being encumbered by existing revenue bonds. In leasing the property, the commissioners court must comply with all applicable conditions of existing revenue bonds except those waived by the holders of the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.103. CREATION OF ENCUMBRANCE. (a) A lease or other

agreement executed under this subchapter may not subject the real property to a pledge or mortgage, other than existing revenue bonds, refunding bonds, or other indentures for the release of existing revenue bonds, or to an encumbrance that did not exist on the date the lease or agreement was executed.

(b) A lease under this subchapter must specifically provide that the real property subject to the lease is not encumbered or mortgaged by the lease or by any agreement executed in connection with the lease.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.104. LENDING CREDIT. A county executing a lease under this subchapter may not in any way lend its credit to an individual or a private corporation or association in connection with the lease.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.105. CONDITIONS OF LEASE. (a) A lease under this subchapter may initially be effective for the term of a mortgage covering the construction of the hotel and related facilities. The lease may provide to the parties constructing, owning, or operating the hotel or related facilities an option to renew the lease.

(b) The lease must be made on a competitive bid. Consideration for the lease may not be less than the fair market lease value of the property and air rights being leased.

(c) The parties to the lease mutually shall determine the other conditions of the lease.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.106. SALE. (a) The commissioners court of a county may sell land owned by the county and the air rights above the land to an individual or a private corporation or association if:

(1) all existing revenue bond obligations encumbering the land have been fully discharged as to bondholders;

(2) a hotel has been built on the land in conjunction with an existing convention center and the hotel has been operated

continuously for at least five years from its inception;

(3) the parties to an existing lease of land mutually agree to the sale of the land and the air rights; and

(4) the county receives an amount for the land and air rights that is fair under the market conditions existing at the time of the sale.

(b) The commissioners court may impose deed restrictions or reverters to preserve the use of the land for a purpose consistent with the construction, expansion, ownership, and operation of a hotel and related facilities in conjunction with a convention center.

(c) A sale of land under this subchapter may include land appurtenant to the land on which the hotel or related facilities have been built.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.107. EXPENDITURE OF TAX FUNDS. In an agreement authorized by this subchapter, the commissioners court of a county may spend tax funds consistent with state law but must limit each commitment or expenditure of tax funds associated with the agreement to an amount available from current revenues of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. DISPOSITION OF SALVAGE OR SURPLUS PROPERTY

Sec. 263.151. DEFINITIONS. In this subchapter:

(1) "Salvage property" means personal property, other than items routinely discarded as waste, that because of use, time, accident, or any other cause is so worn, damaged, or obsolete that it has no value for the purpose for which it was originally intended.

(2) "Surplus property" means personal property that:

(A) is not salvage property or items routinely discarded as waste;

(B) is not currently needed by its owner;

(C) is not required for the owner's foreseeable needs; and

(D) possesses some usefulness for the purpose for which it was intended.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 61(b), eff. Aug. 28, 1989.

Sec. 263.152. DISPOSITION. (a) The commissioners court of a county may:

(1) periodically sell the county's surplus or salvage property by competitive bid or auction, except that competitive bidding or an auction is not necessary if the purchaser is another county or a political subdivision within the county that is selling the surplus or salvage property;

(2) offer the property as a trade-in for new property of the same general type if the commissioners court considers that action to be in the best interests of the county;

(3) order any of the property to be destroyed or otherwise disposed of as worthless if the commissioners court undertakes to sell that property under Subdivision (1) and is unable to do so because no bids are made;

(4) dispose of the property by donating it to a civic or charitable organization located in the county if the commissioners court determines that:

(A) undertaking to sell the property under Subdivision (1) would likely result in no bids or a bid price that is less than the county's expenses required for the bid process;

(B) the donation serves a public purpose; and

(C) the organization will provide the county with adequate consideration, such as relieving the county of transportation or disposal expenses related to the property;

(5) transfer gambling equipment in the possession of the county following its forfeiture to the state to the Texas Facilities Commission for sale under Section 2175.904, Government Code; or

(6) order any vehicle retired under a program designed to encourage the use of low-emission vehicles to be crushed and recycled, if practicable, without a competitive bid or auction.

(a-1) The commissioners court shall remit money received from the Texas Facilities Commission from the sale of gambling equipment under Section 2175.904(c), Government Code, less administrative expenses incurred by the county in connection with the transfer and sale of the equipment, to the local law enforcement agency that originally seized the equipment.

(b) If the property is earth-moving, material-handling, road maintenance, or construction equipment, the commissioners court may exercise a repurchase option in a contract in disposing of property under Subsection (a)(1) or (a)(2). The repurchase price of equipment contained in a previously accepted purchase contract is considered a bid under Subsection (a)(1) or (a)(2).

(c) Disposal under Subsection (a)(3) may be accomplished through a recycling program under which the property is collected, separated, or processed and returned to use in the form of raw materials in the production of new products.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 61(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 416, Sec. 3, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 237, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 746, Sec. 5, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 254, Sec. 1, eff. May 28, 1999; Acts 2003, 78th Leg., ch. 43, Sec. 1, 2, eff. May 15, 2003; Acts 2003, 78th Leg., ch. 345, Sec. 1, 3, eff. June 18, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1233 (H.B. 2462), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 931 (H.B. 3089), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 167 (H.B. 2002), Sec. 1, eff. May 28, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 124, eff. September 1, 2019.

Sec. 263.1521. DISPOSITION OF CERTAIN SENSITIVE MEDIA DEVICES. (a) In this section, "sensitive media device" means a data storage device that the commissioners court of a county determines the county has used to store data the maintenance or disclosure of which is regulated by state or federal law.

(b) Notwithstanding Section 263.152, the commissioners court of a county may order the destruction of a sensitive media device:

(1) that is salvage or surplus property; and

(2) for which the commissioners court determines that the destruction of the sensitive media device is necessary to prevent

inadvertent disclosure of information in connection with the disposal of the device.

Added by Acts 2025, 89th Leg., R.S., Ch. 289 (S.B. 1079), Sec. 1, eff. September 1, 2025.

Sec. 263.153. NOTICE. (a) The commissioners court shall publish notice of a sale of surplus or salvage property in at least one newspaper of general circulation in the county.

(b) The notice must be published on or after the 30th day but before the 10th day before the date of the sale.

(c) A county that contracts with an auctioneer licensed under Chapter 1802, Occupations Code, who uses an Internet auction site offering online bidding through the Internet to sell surplus or salvage property under this subchapter having an estimated value of not more than $500 shall satisfy the notice requirement under this section by posting the property on the site for at least 10 days unless the property is sold before the 10th day.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1150 (H.B. 2859), Sec. 1, eff. June 19, 2009.

Sec. 263.154. REJECTION OF OFFER. The commissioners court or its designated representative conducting the sale may reject any offer to purchase surplus or salvage property if the court or representative finds the rejection to be in the best interests of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.1545. BROKER AGREEMENTS FOR THE SALE OF CERTAIN SURPLUS PROPERTY BY CERTAIN COUNTIES. (a) This section applies only to surplus property that:

(1) is owned by a county with a population of more than 1.2 million and less than 1.5 million;

(2) uses a high level of technology;

(3) was used or will be used in connection with or for a highly specialized program; and

(4) was purchased by the county for more than $250,000.

(b) The commissioners court of a county may enter into a broker agreement to sell surplus property described by Subsection (a) with a broker who has the expertise necessary to negotiate the sale of the surplus property. The commissioners court may pay a fee to the broker if the broker produces a ready, willing, and able buyer to purchase the surplus property.

(c) Notwithstanding any other law, including Section 262.024, a broker agreement under this section is subject to the competitive procurement procedures for services under Subchapter C, Chapter 262, regardless of the amount of the proposed broker's fee.

(d) The commissioners court of a county may sell the surplus property to the ready, willing, and able buyer who submits the highest cash offer and is produced by the broker in accordance with the broker agreement.

(e) Notwithstanding any other law, the commissioners court of a county may sell surplus property under this section without complying with the requirements for conducting a public auction, bidding, or trade-in under other law, including the requirements under Sections 263.152 and 263.153.

Added by Acts 2017, 85th Leg., R.S., Ch. 793 (H.B. 2762), Sec. 1, eff. June 15, 2017.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 156, eff. September 1, 2023.

Sec. 263.155. RECORD. (a) The commissioners court shall keep a record of each item of surplus or salvage property sold and the sale price of each item.

(b) The commissioners court shall keep, for one year, a record of each item of surplus or salvage property destroyed or otherwise disposed of.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 61(c), eff. Aug. 28, 1989.

Sec. 263.156. PROCEEDS. Unless otherwise provided by law, the commissioners court shall deposit the proceeds from the sale of surplus or salvage property:

(1) in the county treasury to the credit of the general fund or the fund from which the property was purchased; or

(2) if the property was used for maintenance or construction of county roads and bridges, in the county treasury to the credit of the county road and bridge fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.157. TITLE. If a purchaser of surplus or salvage property at a sale held in accordance with this subchapter complies in good faith with the conditions of the sale and the applicable rules of the commissioners court, the purchaser obtains good title to the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.158. RULES. The commissioners court may adopt rules necessary to administer this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. CONVEYANCE OF REAL PROPERTY FROM COUNTY TO UNITED STATES

Sec. 263.201. ACQUISITION AND CONVEYANCE OF LAND FOR WATER PROJECTS. (a) If a county that has a part of its boundary coincident with a part of the international boundary between the United States and Mexico, or that is contiguous to such a county, has made an agreement with the United States to acquire and, on request, convey to the United States, with or without monetary consideration, land or an interest in land desired by the United States to enable the United States or an establishment of the United States to carry out an act of the United States Congress in aid of navigation, irrigation, flood control, or improvement of water courses and to accomplish a purpose specified by Section 2204.101, Government Code, the commissioners court of the county may:

(1) on request by the United States through its proper officer for the conveyance of land, or an interest in land, that is necessary for the construction, operation, or maintenance of the water project, acquire the land or interest in land by gift or purchase or by condemnation in accordance with Chapter 21, Property Code, for ultimate conveyance to the United States; and

(2) pay for the land or interest in land from special flood control funds or other available county funds.

(b) In a condemnation by the county, the county, after the award by the special commissioners appointed under Chapter 21, Property Code, may file a declaration of taking adopted by resolution of the commissioners court and signed by the county judge.

(c) The declaration of taking must contain:

(1) a declaration that the land or interest in land described in the original petition is taken for a public use and for ultimate conveyance to the United States;

(2) a description of the land sufficient for the identification of the land;

(3) a statement of the estate or interest in the land being taken;

(4) a statement of the public use to be made of the land;

(5) a plan showing the land being taken; and

(6) a statement of the amount of damages awarded by the special commissioners, or by the jury on appeal, for the taking of the land.

(d) When the commissioners court files the declaration of taking with the county clerk, deposits money in an amount equal to the amount of the award against the county with the county clerk subject to the order of the defendant, and pays any costs awarded against the county:

(1) the land is considered to be condemned and taken for the uses specified in the declaration;

(2) the title to the estate or interest in the land specified in the declaration vests in the county; and

(3) the right to just compensation vests in the person entitled to the compensation.

(e) When title passes, the commissioners court may immediately convey the land or interest in land to the United States.

(f) An appeal from an award of the special commissioners or the service of process by publication does not suspend the vesting of

title in the county. On appeal the only issue is the amount of damages due from the county to the owner of the land or interest in land for its taking.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(24), eff. Sept. 1, 1995. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 5, eff. September 1, 2011.

Sec. 263.202. CONVEYANCE FOR PUBLIC BUILDING. (a) A county that owns land used for public purposes that exceeds the amount of land needed by the county for its public purposes may sell all or part of the excess to the United States at a private sale for any fair consideration approved by the commissioners court of the county. The sale must be made under the statutes of the United States authorizing the acquisition of sites for public buildings.

(b) The commissioners court of the county is responsible for determining whether an excess of land exists and the extent to which the excess may be sold and conveyed under this section.

(c) For a conveyance under this section to be effective, the commissioners court must authorize the conveyance by an order entered in its minutes. The order must:

(1) describe the land to be conveyed;

(2) state the consideration to be paid; and

(3) direct the county judge of the county to execute in the name of the county a conveyance to the United States and to promptly make delivery of the conveyance on payment of the consideration to the appropriate officer of the county.

(d) An instrument of conveyance executed by the county judge must be in the form, and contain the covenants and warranties, prescribed by the commissioners court. The instrument must reserve concurrent jurisdiction over the conveyed land for the service of all state criminal and civil process.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.203. CONVEYANCE FOR CIVIL WORKS PROJECT. If a county owns and controls land, or an interest in land, that is used or

proposed to be used as a part of the site of a flood control, river and harbor improvement, water conservation, or other civil works project constructed or to be constructed by the United States, the county judge of the county, on order of the commissioners court or on a request of the United States that is supported by an order of the commissioners court, may convey an easement, or other interest in land, necessary for the construction, operation, and maintenance of the project to the United States or to a political subdivision, agency, or instrumentality of this state that is cooperating with the United States in the project.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.204. CONVEYANCE FOR MILITARY INSTALLATION OR FACILITY. If a county owns and controls land, or an interest in land, near a federally owned or operated military installation or facility, the county judge of the county, on order of the commissioners court or on a request of the United States that is supported by an order of the commissioners court, may convey to the United States an easement, or other interest in the land, that is necessary for the construction, operation, and maintenance of the installation or facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.205. CONSIDERATION. The commissioners court shall determine the consideration for a conveyance under Section 263.203 or 263.204 and may determine that monetary consideration is not required.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 263.206. ASSENT TO GRANT OF EASEMENT. If the county does not own the fee simple title to land described by Section 263.203 or 263.204 and if the owner of the fee simple has executed an easement to the land for the purposes for which a conveyance is authorized under Section 263.203 or 263.204, the county judge, on order of the commissioners court, may join in and assent to the easement in the instrument granting the easement or in a separate instrument.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER F. ADVERTISING SPACE

Sec. 263.251. SALE OR LEASE OF ADVERTISING SPACE. (a) The commissioners court of a county may adopt a procedure by which the county may:

(1) lease to another entity advertising space located:

(A) in or on a building or part of a building owned by the county;

(B) on personal property owned by the county;

(C) on an official county website; or

(D) on personal property leased by the county, with the property owner's consent; or

(2) sell advertising space located on correspondence distributed by the county through the United States Postal Service.

(b) The procedure must include a requirement that the county publish, before a sale or lease of advertising space is made, a notice of its intent to sell or lease the advertising space. The notice must:

(1) be published:

(A) at least one time in a newspaper of general circulation in the county not earlier than the 30th day or later than the 14th day before the date the award of the sale or lease is made; and

(B) on the county's official website continuously for the 14 days immediately before the date the award of the sale or lease is made;

(2) include a description of the advertising space, including its location and a description of the part of any real or personal property that the advertising space occupies; and

(3) include a description of the procedure by which bids or proposals for the sale or lease may be submitted.

(c) Under the procedure, the commissioners court may reject any and all bids or proposals submitted.

Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 29, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 46 (H.B. 477), Sec. 1, eff. May

16, 2013.

Acts 2017, 85th Leg., R.S., Ch. 999 (H.B. 1170), Sec. 1, eff. June 15, 2017.

CHAPTER 270. MISCELLANEOUS PROVISIONS AFFECTING THE ACQUISITION, SALE, OR LEASE OF PROPERTY BY COUNTIES

Sec. 270.001. ACQUISITION OF REAL PROPERTY BY CONVEYANCE. A deed, grant, or conveyance that is made, is acknowledged or proven, and is recorded as other deeds of conveyance to a county, to the courts or commissioners of a county, or to another person for the use and benefit of a county vests in the county the right, title, interest, and estate that the grantor had in the property at the time the instrument was executed and that the grantor intended to convey.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 270.002. PURCHASE AND SALE OF PROPERTY AFTER JUDGMENT. If property is sold under execution or order of sale on a judgment in favor of a county, including execution on a judgment in a case of scire facias in the name of the state, the attorney or agent representing the county, with the advice and consent of the commissioners court, may purchase and dispose of the property for the county in the same manner as an attorney or agent for the state under Article 4401, Revised Statutes. The officer selling the property shall execute and deliver to the county a deed to the property. On sale of the property by the county, the commissioners court, in the name of the county, shall execute and deliver to the purchaser a deed to the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 270.003. ACQUISITION AND USE OF PUBLIC PLATFORM TONNAGE SCALES. (a) The commissioners court of a county may, on the presentation of a suitable written petition signed by 500 or more inhabitants of the county, purchase and install one or more public platform tonnage scales suitable and adapted for the weighing of livestock, produce, agricultural products, or other goods to facilitate the development of truck farming, cattle raising, or other

trade or business in which the availability of a public scale is necessary or desirable.

(b) The commissioners court may operate a public scale. It may provide adequate personnel for this purpose or it may lease or rent, under terms and conditions it may set, the scale to a responsible private person.

(c) The commissioners court may prescribe rules concerning the use of a public scale, including the fee to be charged.

(d) A public scale provided for under this section must at all times be available for use by the public.

(e) The money that may be collected or received from the use or operation of a public scale or through a contract executed under this section shall be deposited in the general fund of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 270.004. AUTHORITY TO CONTRACT WITH FEDERAL GOVERNMENT FOR ACQUISITION OF LAND OR HOUSING. (a) The commissioners court of a county may:

(1) contract with the United States, including the General Services Administrator and the Secretary of Housing and Urban Development and their successors, for:

(A) the acquisition of land or an interest in land located in the county that is owned by the United States; or

(B) the acquisition of temporary housing on land that the United States owns or controls;

(2) acquire from the United States, by purchase, gift, or otherwise, land or housing described in Subdivision (1); and

(3) own and operate land or housing acquired under this subsection.

(b) The commissioners court may:

(1) adopt a resolution or order requesting the United States to transfer to the county the land, housing, or the interest in the land or housing that the United States is authorized to convey or transfer to the county; and

(2) bind the county to comply with all terms and conditions imposed by the United States as a prerequisite to the transfer or conveyance of the land, housing, or the interest in the land or housing.

(c) The instrument or deed conveying to the county the land, housing, or the interest in the land or housing may contain conditions, provisions, covenants, or warranties prescribed by the United States and agreed on by the commissioners court acting for the county, provided the terms are not prohibited by the Texas Constitution.

(d) The commissioners court may issue negotiable bonds and levy taxes for the interest and sinking funds of the bonds, in accordance with Subtitles A and C, Title 9, Government Code, to purchase or acquire in another manner the land or housing and to improve, enlarge, extend, or repair the land or housing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.292, eff. Sept. 1, 2001.

Sec. 270.005. CONTRACTS WITH FEDERAL GOVERNMENT FOR CONSTRUCTION IN POPULOUS COUNTY. (a) The commissioners court of a county with a population of 251,000 to 260,000 may contract with the United States government or a federal agency for:

(1) the joint construction or improvement of roads, bridges, or other county improvements; or

(2) the maintenance of a project constructed under this section.

(b) The county may pay for its part of the expense of a project constructed under this section from available county funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 95, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 80, 81, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 86, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 157, eff. September 1, 2023.

Sec. 270.006. REPORT ABOUT USE OF, OR ACCIDENT INVOLVING, EQUIPMENT IN COUNTY WITH POPULATION OF 500,000 OR MORE. (a) In this section, "equipment" means equipment purchased with and operated with public funds or personal equipment for which an employee or officer

is reimbursed by a county or flood control district for operation and maintenance charges.

(b) This section applies only to a county with a population of 500,000 or more.

(c) An officer or employee of a county, a district officer, or an employee of a flood control district in the county who operates equipment shall file with each payroll a report for each piece of equipment in the charge of the employee or officer, showing:

(1) the daily use of the equipment;

(2) the time and mileage run;

(3) the amount spent for repairs;

(4) the gasoline, oil, and grease purchased; and

(5) the road, bridge, or project on which work was performed.

(d) The report must be in writing and must be signed and certified by the officer or employee actually using the equipment.

(e) An officer or employee of the county, a district officer, or an employee of a flood control district in the county shall file a report of an accident involving equipment in the charge of the employee or officer. The report must give the cause, damage, location, circumstances, and persons and equipment involved in the accident.

(f) A report under this section must be on a prescribed form and must be filed on or before the fifth day of the month succeeding the period of operation.

(g) A report under this section must disclose all facts essential to a proper analysis of maintenance and operating costs and other statistical purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 270.007. SALE OF COMPUTER SOFTWARE. (a) A county may sell or license a computer software application or software system developed by the county for use by the county. A county may sell or license a computer software application or software system developed for the county by a person under contract unless the contract specifically prohibits the county from selling or licensing the application or system.

(b) A county may exclusively contract with a person to market

the application or system. If the original contract for development of the application or system under Subsection (a) does not include a provision for marketing the application or system, a contract under this subsection shall be awarded in compliance with Section 262.030, concerning the alternative competitive procedure for insurance or high technology items.

(c) The provisions of the open records law, Chapter 552, Government Code, governing the cost of making copies of public records do not apply to a software application or software system subject to this section.

(d) In this section, "computer software application or software system" includes documentation of the application or system, and does not include any hardware or equipment associated with the application or system.

(e) Notwithstanding any other provision of this section, the provisions of this section apply only to (1) the sale or licensure of a software application or software system by a county or (2) a request under Chapter 552, Government Code, for a computer software application or software system itself, and do not apply to the cost of production for public inspection or copying of information collected, assembled, or maintained through the use of such software, including on-line instructions on computer searches or information necessary to obtain records from county computer systems, which cost shall be governed by Subchapter F, Chapter 552, Government Code, without regard to the cost of developing the software. Nothing in this section shall preclude header or record information, necessary for conversion and interpretation of electronic images, being made available for electronic images of public records.

(f) Except as provided by Subsection (b), a county may sell or license software under this section for a price negotiated between the county and the purchaser or licensee, including another governmental entity.

(g) Repealed by Acts 2003, 78th Leg., ch. 301, Sec. 12.

(h) The provisions of this section shall not authorize the development by a county of any software application or software system not otherwise authorized by law.

(i) A county may not develop a computer application or software system for the sole purpose of selling, licensing, or marketing the software application or software system.

Added by Acts 1995, 74th Leg., ch. 758, Sec. 1, eff. Aug. 28, 1995. Amended by Acts 2003, 78th Leg., ch. 301, Sec. 10, 12, eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 19, eff. June 17, 2011.

Sec. 270.008. DISPOSAL OF SUPER COLLIDER PROPERTY. (a) If the United States Department of Energy returns or gives to any county any property that was used or was to be used in connection with or by a superconducting super collider high-energy research facility, the county may sell, lease, or otherwise dispose of the property by a method determined by the commissioners court of the county.

(b) A commissioners court disposing of property under this section is not required to comply with any provision of this title, including Sections 263.001 and 272.001, requiring a public auction or bidding process for the disposal of property.

Added by Acts 1997, 75th Leg., ch. 92, Sec. 1, eff. May 15, 1997.

Sec. 270.009. INTELLECTUAL PROPERTY OF COUNTY. A county may acquire, apply for, register, secure, hold, protect, and renew under the laws of this state, another state, the United States, or any other nation:

(1) a patent for the invention or discovery of:

(A) any new and useful process, machine, manufacture, composition of matter, art, or method;

(B) any new use of a known process, machine, manufacture, composition of matter, art, or method; or

(C) any new and useful improvement on a known process, machine, manufacture, composition of matter, art, or method;

(2) a copyright of an original work of authorship fixed in any tangible medium of expression, now known or later developed, from which the work may be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;

(3) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the county uses to identify and distinguish the county's goods and

services from other goods and services; and

(4) other evidence of protection of exclusivity issued for intellectual property.

Added by Acts 2003, 78th Leg., ch. 301, Sec. 11, eff. Sept. 1, 2003.

SUBTITLE C. ACQUISITION, SALE, OR LEASE PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 271. PURCHASING AND CONTRACTING AUTHORITY OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. PUBLIC PROPERTY FINANCE ACT

Sec. 271.001. SHORT TITLE. This subchapter may be cited as the Public Property Finance Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.002. PURPOSE. (a) The legislature finds that the purchase or other acquisition or the use of property by governmental agencies and the financing of those activities are necessary to the efficient and economic operation of government.

(b) This subchapter promotes a public purpose by furnishing governmental agencies with a feasible means to purchase or otherwise acquire, use, and finance public property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 752, Sec. 1, eff. Aug. 30, 1993.

Sec. 271.003. DEFINITIONS. In this subchapter:

(1) "Conservation and reclamation district" means a district or authority organized or operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(2) "Contract" means an agreement entered into under this subchapter but does not mean a contract solely for the construction of improvements to real property.

(3) "Governing body" means the board, council, commission, agency, court, or other body or group that is authorized by law to acquire personal property for each respective governmental agency.

(4) "Governmental agency" means a municipality, county,

school district, conservation and reclamation district, hospital organization, or other political subdivision of this state.

(5) "Hospital organization" means a district, authority, board, or joint board organized under the laws of this state for hospital purposes.

(6) "Net effective interest rate" means, with reference to a contract, the interest amount considered by the governing body of a governmental agency to accrue on a contract.

(7) "Net interest cost" means the total of all interest to accrue and come due on a contract through the last date a payment is due on the contract, plus any discount or minus any premium included in the contract price or principal sum.

(8) "Personal property" includes appliances, equipment, facilities, and furnishings, or an interest in personal property, whether movable or fixed, considered by the governing body of the governmental agency to be necessary, useful, or appropriate to one or more purposes of the governmental agency. The term includes all materials and labor incident to the installation of that personal property. The term includes electricity and cloud computing services. The term does not include real property.

(9) "School district" means an independent school district, common school district, community college district, junior college district, or regional college district organized under the laws of this state.

(10) "Improvement" means a permanent building, structure, fixture, or fence that is erected on or affixed to land but does not include a transportable building or structure whether or not it is affixed to land.

(11) "Real property" means land, improvement, or an estate or interest in real property, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation in real property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 752, Sec. 2, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 396, Sec. 1.37, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1095 (S.B. 1393), Sec. 1, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 211 (S.B. 58), Sec. 1, eff. June

3, 2021.

Sec. 271.004. REAL PROPERTY AND IMPROVEMENTS FOR SCHOOL DISTRICTS. (a) The board of trustees of a school district may execute, perform, and make payments under a contract under this Act for the use or purchase or other acquisition of real property or an improvement to real property. If the board proposes to enter into such a contract, the board shall publish notice of intent to enter into the contract not less than 60 days before the date set to approve execution of the contract in a newspaper with general circulation in the district. The notice must summarize the major provisions of the proposed contract. The notice shall estimate the construction and other costs, but the board shall not publish the first advertisement for bids for construction of improvements until 60 days has expired from the publication of the notice of intent to enter into the contract.

(b) If, within 60 days of the date of publication of the notice of intent required by Subsection (a), a written petition signed by at least five percent of the registered voters of the district is filed with the board of trustees requesting that the board order a referendum on the question of whether the contract should be approved, the board may not approve the contract or publish the first advertisement for bids for construction of improvements unless the question is approved by a majority of the votes received in a referendum ordered and held on the question.

(c) Except as otherwise provided by this section, the referendum shall be held in accordance with the applicable provisions of the Election Code. The requirement that an election must be held on a uniform election date as prescribed by the Election Code does not apply to an election held under this section.

(d) The contract is a special obligation of the school district if ad valorem taxes are not pledged to the payment of the contract.

(e) If the contract provides that payments by the school district are to be made from maintenance taxes previously approved by the voters of the school district and are subject to annual appropriation or are paid from a source other than ad valorem taxes, the payments under the contract shall not be considered payment of indebtedness under Section 26.04(c), Tax Code.

(f) All or part of the obligation of the school district may be

evidenced by one or more negotiable promissory notes.

(g) A lease-purchase contract entered into by the district under this section and the records relating to its execution must be submitted to the attorney general for examination as to their validity.

(h) If the attorney general finds that the contract has been authorized in accordance with the law, the attorney general shall approve them, and the comptroller of public accounts shall register the contract.

(i) Following approval and registration, the contract is incontestable and is a binding obligation according to its terms.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 752, Sec. 3, eff. Aug. 30, 1993.

Sec. 271.005. AUTHORITY TO CONTRACT FOR PERSONAL PROPERTY. (a) The governing body of a governmental agency may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof. The contract is an obligation of the governmental agency. The contract may:

(1) be on the terms considered appropriate by the governing body;

(2) be in the form of a lease, a lease with an option or options to purchase, an installment purchase, or any other form considered appropriate by the governing body including that of an instrument which would be required to be approved by the attorney general under Chapter 1202, Government Code, provided that contracts in such form must be approved by the attorney general in accordance with the terms of that chapter;

(3) be for a term approved by the governing body and contain an option or options to renew or extend the term; and

(4) be made payable from a pledge of all or any part of any revenues, funds, or taxes available to the governmental agency for its public purposes.

(b) The governing body of a governmental agency may contract under this section for materials and labor incident to the installation of personal property.

(c) A contract may provide for the payment of interest on the

unpaid amounts of the contract at a rate or rates and may contain prepayment provisions, termination penalties, and other provisions determined within the discretion of the governing body. The net effective interest rate on the contract may not exceed the net effective interest rate at which public securities may be issued in accordance with Chapter 1204, Government Code. Interest on the unpaid amounts of a contract shall be computed as simple interest.

(d) Subject only to applicable constitutional restrictions, the governing body may obligate taxes or revenues for the full term of a contract for the payment of the contract.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 82, Sec. 1, eff. May 12, 1991; Acts 1993, 73rd Leg., ch. 104, Sec. 3, eff. May 7, 1993; Acts 1999, 76th Leg., ch. 396, Sec. 1.38, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 8.293, eff. Sept. 1, 2001.

Sec. 271.006. COMPLIANCE WITH OTHER REQUIREMENTS. (a) In entering into the contract, a municipality must comply with the requirements of Chapter 252 and a county must comply with the requirements of Subchapter C, Chapter 262. However, the municipality or county is not required to submit to a referendum the question of entering into the contract.

(b) The purchasing requirements of Section 361.426, Health and Safety Code, apply to a purchase by a governmental agency under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 303, Sec. 19, eff. Sept. 1, 1991.

Sec. 271.0065. ADDITIONAL COMPETITIVE PROCEDURES. (a) In any procedure for competitive bidding under this subchapter, the governing body shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A governmental agency shall receive bids or proposals under this subchapter in a fair and confidential manner.

(c) A governmental agency may receive bids or proposals under this subchapter in hard-copy format or through electronic

transmission. A governmental agency shall accept any bids or proposals submitted in hard-copy format.

Added by Acts 2001, 77th Leg., ch. 1063, Sec. 4, eff. Sept. 1, 2001.

Sec. 271.007. APPROVED AND REGISTERED CONTRACT. (a) If the governing body approves the contract and the contract provides for the payment of an aggregate amount of $100,000 or more, the governing body may submit the contract and the record relating to the contract to the attorney general for examination as to the validity of the contract. The attorney general shall approve the contract if it has been made in accordance with the constitution and other laws of this state, and the contract then shall be registered by the comptroller of public accounts.

(b) After the contract has been approved and registered as provided by this section, the contract is valid and is incontestable for any cause. The legal obligation of the lessor, vendor, or supplier of personal property or of the person installing personal property to the governmental agency is not diminished in any respect by the approval and registration of the contract.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.39, eff. Sept. 1, 1999.

Sec. 271.008. AUTHORIZED INVESTMENTS. The contract is a legal and authorized investment for:

(1) banks, savings banks, trust companies, and savings and loan associations;

(2) insurance companies;

(3) fiduciaries and trustees; and

(4) the sinking funds of a county, municipality, school district, or other political subdivision or corporation of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.009. TERM OF CONTRACT. The contract may be for any term not to exceed 25 years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS

Sec. 271.021. DEFINITIONS. In this subchapter:

(1) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(2) "Governmental entity" means:

(A) a county;

(B) a common or independent school district;

(C) a hospital district or authority;

(D) a housing authority; or

(E) an agency or instrumentality of the governmental entities described by Paragraphs (A) through (D).

(3) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(4) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 328, Sec. 15, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1250, Sec. 14, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 13.04, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 1370, Sec. 1, eff. Sept. 1, 1997.

Sec. 271.022. EXEMPT CONTRACT. This subchapter does not affect a contract required to be awarded under Subchapter A, Chapter 2254, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(9), eff. Sept. 1, 1995.

Sec. 271.023. CONFLICT OF LAWS. To the extent of any conflict, the provisions of Subchapter B, Chapter 44, Education Code, relating to the purchase of goods and services under contract by a school district prevail over this subchapter.

Added by Acts 1999, 76th Leg., ch. 1383, Sec. 2, eff. June 19, 1999.

Sec. 271.024. COMPETITIVE PROCUREMENT PROCEDURE APPLICABLE TO CONTRACT. If a governmental entity is required by statute to award a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, and if the contract requires the expenditure of more than $100,000 from the funds of the entity, the bidding on the contract must be accomplished in the manner provided by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 749, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 14, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 115, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 6, eff. June 19, 2009.

Acts 2025, 89th Leg., R.S., Ch. 256 (S.B. 1173), Sec. 7, eff. September 1, 2025.

Sec. 271.0245. ADDITIONAL COMPETITIVE PROCEDURES. (a) In the procedure for competitive bidding under this subchapter, the governing body of the governmental entity shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A governmental entity shall receive bids under this subchapter in a fair and confidential manner.

(c) A governmental entity may receive bids under this subchapter in hard-copy format or through electronic transmission. A governmental entity shall accept any bids submitted in hard-copy format.

Added by Acts 2001, 77th Leg., ch. 1063, Sec. 5, eff. Sept. 1, 2001.

Sec. 271.025. ADVERTISEMENT FOR BIDS. (a) The governmental entity must advertise for bids. The advertisement for bids must

include a notice that:

(1) describes the work;

(2) states the location at which the bidding documents, plans, specifications, or other data may be examined by all bidders; and

(3) states the time and place for submitting bids and the time and place that bids will be opened.

(b) The advertisement must be published as required by law. If no legal requirement for publication exists, the advertisement must be published at least twice in one or more newspapers of general circulation in the county or counties in which the work is to be performed. The second publication must be on or before the 10th day before the first date bids may be submitted.

(c) The governmental entity must mail a notice containing the information required under Subsection (a) to any organization that:

(1) requests in advance that notices for bids be sent to it;

(2) agrees in writing to pay the actual cost of mailing the notice; and

(3) certifies that it circulates notices for bids to the construction trade in general.

(d) The governmental entity shall mail a notice required under Subsection (c) on or before the date the first newspaper advertisement under this section is published.

(e) In a county with a population of 3.3 million or more, the county and any district or authority created under Article XVI, Section 59, of the Texas Constitution of which the governing body is the commissioners court may require that a minimum of 25 percent of the work be performed by the bidder and, notwithstanding any other law to the contrary, may establish financial criteria for the surety companies that provide payment and performance bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1019, Sec. 2, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 669, Sec. 82, eff. Sept. 1, 2001.

Sec. 271.026. OPENING OF BIDS. (a) Bids may be opened only by the governing body of the governmental entity at a public meeting or by an officer or employee of the governmental entity at or in an

office of the governmental entity. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.

(b) This subchapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.027. AWARD OF CONTRACT. (a) The governmental entity is entitled to reject any and all bids.

(b) The contract must be awarded to the lowest responsible bidder, but the contract may not be awarded to a bidder who is not the lowest bidder unless before the award each lower bidder is given notice of the proposed award and is given an opportunity to appear before the governing body of the governmental entity or the designated representative of the governing body and present evidence concerning the bidder's responsibility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.0275. SAFETY RECORD OF BIDDER CONSIDERED. In determining who is a responsible bidder, the governmental entity may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:

(1) the governing body of the governmental entity has adopted a written definition and criteria for accurately determining the safety record of a bidder;

(2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and

(3) the determinations are not arbitrary and capricious.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 58(d), eff. Aug. 28, 1989.

Sec. 271.028. EFFECT OF NONCOMPLIANCE. A contract awarded in

violation of this subchapter is void.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.029. CRIMINAL PENALTIES. (a) An officer or employee of a governmental entity commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of the statute that requires a contract described by Section 271.024 to be awarded on the basis of competitive bids. An offense under this subsection is a Class B misdemeanor.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 285, Sec. 24, eff. September 1, 2011.

(c) An officer or employee of a governmental entity commits an offense if the officer or employee intentionally or knowingly violates this subchapter, other than by conduct described by Subsection (a). An offense under this subsection is a Class C misdemeanor.

Added by Acts 1989, 71st Leg., ch. 1250, Sec. 15, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 18, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 24, eff. September 1, 2011.

SUBCHAPTER C. CERTIFICATE OF OBLIGATION ACT

Sec. 271.041. SHORT TITLE. This subchapter may be cited as the Certificate of Obligation Act of 1971.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.042. PURPOSE; CONFLICT. (a) It is the purpose of this subchapter to provide:

(1) a procedure for certain financing that is an alternative to the more cumbersome procedure under Chapter 252 or 262; and

(2) a new class of securities to be issued and delivered

within the financial capabilities of an issuer on compliance with the procedures prescribed by this subchapter.

(b) If there is a conflict between a provision of this subchapter and a provision of Chapter 252 or 262, an issuer may use either provision, and it is not necessary for the governing body to designate the law under which action is being taken.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 39, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 19, eff. September 1, 2011.

Sec. 271.043. DEFINITIONS. In this subchapter:

(1) "Bond funds" means money received from the sale of bonds by the issuer.

(2) "Certificate" means a certificate of obligation authorized to be issued under this subchapter.

(3) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(4) "Contractual obligation" means a contract entered into by an issuer through its governing body and executed under Section 271.054 or 271.056.

(5) "Current funds" means money in the treasury of the issuer, taxes in the process of collection during the current budget year of the issuer, and all other revenues anticipated with reasonable certainty during the current budget year of the issuer.

(6) "Governing body" means the board, council, commission, court, or other body or group authorized to issue bonds for or on behalf of an issuer.

(7) "Issuer" means a municipality, county, or hospital district established under Chapter 281, Health and Safety Code.

(7-a) "Public work" for an issuer that is a municipality or county:

(A) means any of the following public improvements as authorized by law:

(i) a street, road, highway, bridge, sidewalk, or parking structure;

(ii) a landfill;

(iii) an airport;

(iv) a utility system, water supply project, water treatment plant, wastewater treatment plant, or water or wastewater conveyance facility;

(v) a wharf or dock;

(vi) a flood control and drainage project;

(vii) a public safety facility, including a police station, fire station, emergency shelter, jail, or juvenile detention facility;

(viii) a judicial facility;

(ix) an administrative office building housing the governmental functions of the municipality or county;

(x) an animal shelter;

(xi) a library; or

(xii) a park or recreation facility that is generally accessible to the public and is part of the municipal or county park system;

(B) means the rehabilitation, expansion, reconstruction, or maintenance of an existing stadium, arena, civic center, convention center, or coliseum that is owned and operated by the municipality or county or by an entity created to act on behalf of the municipality or county; and

(C) does not include:

(i) a facility for which more than 50 percent of the average annual usage is or is intended to be for professional or semi-professional sports;

(ii) a new stadium, arena, civic center, convention center, or coliseum that is or is intended to be leased by a single for-profit tenant for more than 180 days in a single calendar year; or

(iii) a hotel.

(8) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(9) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1250, Sec. 17, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 47, Sec. 5, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1126 (H.B. 4082), Sec. 2, eff. September 1, 2023.

Sec. 271.044. SUBCHAPTER AVAILABLE TO CERTAIN MUNICIPALITIES. (a) A municipality may use this subchapter only if the municipality:

(1) is incorporated under the home-rule amendment to the constitution (Article XI, Section 5, of the Texas Constitution); or

(2) is incorporated under a general or special law and the municipality has the authority to levy an ad valorem tax of not less than $1.50 on each $100 valuation of taxable property in the municipality.

(b) A home-rule municipality may use this subchapter regardless of any provision in the municipality's charter to the contrary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.045. PURPOSES FOR WHICH CERTIFICATES MAY BE AUTHORIZED. (a) The governing body of an issuer may authorize certificates to pay a contractual obligation to be incurred for the:

(1) construction of any public work;

(2) purchase of materials, supplies, equipment, machinery, buildings, land, and rights-of-way for authorized needs and purposes; or

(3) payment of contractual obligations for professional services, including services provided by tax appraisers, engineers, architects, attorneys, map makers, auditors, financial advisors, and fiscal agents.

(b) If necessary because of change orders, certificates may be authorized in an amount not to exceed 25 percent of a contractual obligation incurred for the construction of public works, but certificates may be delivered only in the amount necessary to discharge contractual obligations.

(c) The governing body of a municipality may issue certificates of obligation to pay all or part of a municipality's obligations incurred by contract for interests in and rights to water or sewer

treatment capacity in connection with a water supply and transmission project or sewer treatment or collection project to be constructed in whole or in part on behalf of the municipality by another governmental entity or political subdivision pursuant to a written agreement expressly authorized under Section 552.014 of this code or Section 791.026, Government Code.

(d) In exercising its authority to issue certificates of obligation for the purposes specified in Subsection (c), the municipality must limit the principal amount of certificates to be issued for the purpose of funding its contractual obligations to an amount equal to (i) the aggregate of the contractual payments or the total costs allocated or attributed, under generally accepted accounting principles, to the capital costs of the project, as opposed to any maintenance or operating costs to be paid under the written agreement or (ii) the total cost of the project multiplied by the percentage of the nameplate capacity of the project acquired or conveyed by the written agreement to the municipality, whichever limitation is applicable to the contractual interests or rights being conveyed or identified in the written agreement.

(e) Work that is directly attributable under generally accepted accounting principles to the costs of the project and that is performed by employees of the issuer may be allocated or attributed to the capital costs of the project.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 124, Sec. 1, eff. May 19, 1997; Acts 2001, 77th Leg., ch. 402, Sec. 14, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 554 (H.B. 1232), Sec. 1, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(4), eff. April 1, 2009.

Sec. 271.046. ADDITIONAL PURPOSES FOR CERTIFICATES. (a) Certificates may be issued for the payment of contractual obligations to be incurred in:

(1) constructing or equipping a jail;

(2) constructing, renovating, or otherwise improving a county-owned building; or

(3) constructing a bridge that is part of or connected to a county road or an approach to such a bridge.

(b) Certificates issued under this section may be sold for cash, subject to the restrictions and other conditions of Section 271.050.

(c) The provisions of this subchapter relating to advertisement for competitive bids apply to contractual obligations to be incurred for a purpose for which certificates are to be issued under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 648, Sec. 1, eff. June 14, 1989.

Sec. 271.0461. ADDITIONAL PURPOSE FOR CERTIFICATES: DEMOLITION OF DANGEROUS STRUCTURES OR RESTORATION OF HISTORIC STRUCTURES. Certificates may be issued by any municipality for the payment of contractual obligations to be incurred in demolishing dangerous structures or restoring historic structures and may be sold for cash, subject to the restrictions and other conditions of Section 271.050.

Added by Acts 1989, 71st Leg., ch. 459, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1056, Sec. 1, eff. June 19, 1997.

Sec. 271.047. AUTHORIZATION OF CERTIFICATES BY ORDINANCE OR ORDER; OTHER PROVISIONS IN CERTIFICATES. (a) Certificates may be authorized by an ordinance adopted by the governing body of a municipality, or by an order adopted by the governing body of a county after compliance with the quorum requirements prescribed by Section 81.006.

(b) The governing body may:

(1) make the certificates payable at times and places determined by the governing body;

(2) issue the certificates in forms and one or more denominations, either in coupon form or registered as to principal and interest, or both;

(3) make the certificates contain options for redemption before scheduled maturity; and

(4) make the certificates contain any other provisions the

governing body desires.

(c) A certificate may not mature over a period greater than 40 years from the date of the certificate and may not bear interest at a rate greater than that allowed by Chapter 1204, Government Code.

(d) Except as provided by this subsection, the governing body of an issuer may not authorize a certificate to pay a contractual obligation to be incurred if a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding three years and failed to be approved. A governing body may authorize a certificate that the governing body is otherwise prohibited from authorizing under this subsection:

(1) in a case described by Sections 271.056(1)-(3); and

(2) to comply with a state or federal law, rule, or regulation if the political subdivision has been officially notified of noncompliance with the law, rule, or regulation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.294, eff. Sept. 1, 2001. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 923 (H.B. 1378), Sec. 2, eff. January 1, 2016.

Sec. 271.048. CLAIMS AND ACCOUNTS; FUNDING AND EXCHANGE. (a) A governing body may provide that claims and accounts may, after certificates are authorized, be incurred for authorized purposes and that the claims and accounts represent an undivided interest in the certificates simultaneously authorized. The governing body may also provide for the funding or exchange of the claims and accounts for a like total principal amount of the certificates, with any amount in excess of the principal amount of the certificates delivered at one time to be paid in cash or carried forward to a subsequent exchange of claims and accounts for certificates.

(b) The authorization of certificates and the indebtedness they evidence may occur before the execution of a contract under this subchapter.

(c) This section does not create any exception to the competitive bidding requirements of this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.049. NOTICE OF INTENTION TO ISSUE CERTIFICATES; PETITION AND ELECTION. (a) Regardless of the sources of payment of certificates, certificates may not be issued unless the issuer publishes notice of its intention to issue the certificates. The notice must be published:

(1) once a week for two consecutive weeks in a newspaper, as defined by Subchapter C, Chapter 2051, Government Code, that is of general circulation in the area of the issuer, with the date of the first publication to be before the 45th day before the date tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates; and

(2) if the issuer maintains an Internet website, continuously on the issuer's website for at least 45 days before the date tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates.

(b) The notice must state:

(1) the time and place tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates;

(2) the purpose of the certificates to be authorized;

(3) the manner in which the certificates will be paid for, whether by taxes, revenues, or a combination of the two;

(4) the following:

(A) the then-current principal of all outstanding debt obligations of the issuer;

(B) the then-current combined principal and interest required to pay all outstanding debt obligations of the issuer on time and in full, which may be based on the issuer's expectations relative to the interest due on any variable rate debt obligations;

(C) the maximum principal amount of the certificates to be authorized; and

(D) the estimated combined principal and interest required to pay the certificates to be authorized on time and in full;

(5) the estimated interest rate for the certificates to be authorized or that the maximum interest rate for the certificates may not exceed the maximum legal interest rate; and

(6) the maximum maturity date of the certificates to be authorized.

(c) If before the date tentatively set for the authorization of the issuance of the certificates or if before the authorization, the

municipal secretary or clerk if the issuer is a municipality, or the county clerk if the issuer is a county, receives a petition signed by at least five percent of the qualified voters of the issuer protesting the issuance of the certificates, the issuer may not authorize the issuance of the certificates unless the issuance is approved at an election ordered, held, and conducted in the manner provided for bond elections under Chapter 1251, Government Code.

(d) This section does not apply to certificates issued for the purposes described by Sections 271.056(1)-(4).

(e) In this section, "debt obligation" means a public security, as defined by Section 1201.002, Government Code, secured by and payable from ad valorem taxes. The term does not include public securities that are designated as self-supporting by the political subdivision issuing the securities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(3), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 8.295, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 402, Sec. 15, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1008 (H.B. 730), Sec. 1, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 728 (H.B. 477), Sec. 5, eff. September 1, 2019.

Sec. 271.050. SALE OF CERTIFICATES. (a) The governing body may sell for cash any certificates authorized to be issued for one or more purposes described by Section 271.056.

(b) The proceeds may be used only for the purposes for which the certificates were authorized and issued. The proceeds may be used to pay for work done by employees of the issuer that are hired for the specific purpose of performing work on the project. The proceeds may be used to pay for work done by other employees of the issuer only if the issuer incurs equivalent or greater costs to replace the normal work that would have otherwise been performed by the employees. The proceeds may not be used to reimburse the issuer for costs that are determined to be indirect costs under generally accepted accounting principles. Any accrued interest received must be deposited in the interest and sinking fund established for the

payment of the certificates.

(c) A certified copy of the proceedings relating to the authorization of the certificates must be submitted to the attorney general and must be approved by the attorney general as having been authorized in accordance with this subchapter. The attorney general shall examine the proceedings relating to the authorization of the certificates. Subtitles A and C, Title 9, Government Code, and Chapter 618, Government Code, govern the execution, approval, registration, and validity of the certificates. After registration of the certificates by the comptroller, the certificates are incontestable for any cause.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.296, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 554 (H.B. 1232), Sec. 2, eff. June 17, 2005.

Sec. 271.051. CERTIFICATES AS INVESTMENTS OR AS SECURITY FOR DEPOSITS. (a) Certificates approved by the attorney general are legal and authorized investments for:

(1) banks, savings banks, trust companies, and savings and loan associations;

(2) insurance companies;

(3) fiduciaries, trustees, and guardians; and

(4) sinking funds of municipalities, counties, school districts, or other political corporations or subdivisions of the state.

(b) Certificates approved by the attorney general are eligible to secure deposits of public funds of the state or a municipality, county, school district, or other political corporation or subdivision of the state. The certificates are sufficient security for the deposits to the extent of the face value of the certificates, if accompanied by any appurtenant unmatured interest coupons.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.052. CERTIFICATES PAYABLE FROM AND SECURED BY OTHER REVENUES. (a) The governing body, instead of or in addition to

other methods of payment provided by this subchapter, may provide that certificates will be paid from and secured by other revenues if the issuer is authorized by the state constitution or other statutes to secure or pay any kind of general or special obligation by or from those revenues.

(b) The issuer may deliver certificates secured under this section in exchange for services or property in the same manner and with the same effect as otherwise provided by this subchapter or may sell the certificates for cash.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.0525. REFINANCING CERTIFICATES ISSUED BY COUNTY. (a) A county may not issue certificates to refinance or refund the debt evidenced by certificates issued by the county unless the county complies with the notice requirements of Sections 271.049(a) and (b) for the issuance of certificates.

(b) If, before the date tentatively set for the authorization of refinancing certificates, the county clerk receives a petition that meets the requirements of Subsection (c) protesting the issuance of the refinancing certificates, the county may not authorize the issuance of the refinancing certificates unless the issuance is approved at an election ordered, held, and conducted in the manner provided for bond elections under Chapter 1251, Government Code.

(c) A petition to protest the issuance of refinancing certificates under this section must be signed by a number of qualified voters, residing in the county, equal to at least five percent of the number of votes cast in that county for governor in the most recent general election at which that office was filled.

Added by Acts 1989, 71st Leg., ch. 961, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.297, eff. Sept. 1, 2001.

Sec. 271.053. CERTIFICATES AS DEBT AND SECURITY. Certificates are debts of the issuer within the meaning of Article XI, Sections 5 and 7, of the Texas Constitution. When delivered, certificates are "security" within the meaning of Chapter 8, Business & Commerce Code, and are general obligations of the issuer within the meaning of

Subchapters A and D, Chapter 1207, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.298, eff. Sept. 1, 2001.

Sec. 271.054. COMPETITIVE PROCUREMENT REQUIREMENT. Before the governing body of an issuer may enter into a contract requiring an expenditure by or imposing an obligation or liability on the issuer, or on a subdivision of the issuer if the issuer is a county, of more than $100,000, the governing body must:

(1) submit the proposed contract to competitive procurement; or

(2) use an alternate method of project delivery authorized by Chapter 2269, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 15, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 675, Sec. 1, eff. June 13, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 7, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.10, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(24), eff. September 1, 2013.

Acts 2025, 89th Leg., R.S., Ch. 256 (S.B. 1173), Sec. 8, eff. September 1, 2025.

Sec. 271.055. NOTICE TO BIDDERS. (a) An issuer must give notice of the time, date, and place at which the issuer will publicly open the bids on a contract for which competitive bidding is required by this subchapter and read the bids aloud. The notice must be given in accordance with Subsection (b) or in accordance with:

(1) Chapter 252, if the issuer is a municipality;

(2) the municipal charter of the issuer, if the issuer is a home-rule municipality; or

(3) the County Purchasing Act (Subchapter C, Chapter 262), if the issuer is a county.

(b) If an issuer gives notice under this subsection, the notice

must:

(1) be published once a week for two consecutive weeks in a newspaper, as defined by Subchapter C, Chapter 2051, Government Code, that is of general circulation in the area of the issuer, with the date of the first publication to be before the 14th day before the date set for the public opening of the bids and the reading of the bids aloud; and

(2) state that plans and specifications for the work to be done or specifications for the machinery, supplies, equipment, or materials to be purchased are on file with a designated official of the issuer and may be examined without charge.

(c) If the contract is to be let on a unit price basis, in addition to the other information required to be in the notice, the notice must specify, based on the best available information, the approximate quantities of the items needed by the issuer that are to be bid on.

(d) An issuer may not authorize certificates unless the notice also states that:

(1) the successful bidder must accept the certificates in payment for all or part of the contract price; or

(2) the governing body has made provisions for the contractor to sell and assign the certificates and that each bidder is required, at the time of the receipt of the bids, to elect whether the bidder will:

(A) accept the certificates in payment of all or part of the contract price; or

(B) assign the certificates in accordance with the arrangements made by the governing body.

(e) In a county with a population of 3.3 million or more, the county and any district or authority created under Article XVI, Section 59, of the Texas Constitution of which the governing body is the commissioners court may require that a minimum of 25 percent of the work be performed by the bidder and, notwithstanding any other law to the contrary, may establish financial criteria for the surety companies that provide payment and performance bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1019, Sec. 3, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 749, Sec. 6, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 8, eff. Sept. 1, 1993; Acts 1995, 74th

Leg., ch. 76, Sec. 5.95(3), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 669, Sec. 83, eff. Sept. 1, 2001.

Sec. 271.056. EXEMPTIONS FROM ADVERTISEMENT REQUIREMENT. The provisions of this subchapter relating to the advertisement for competitive bids do not apply to:

(1) a case of public calamity if it is necessary to act promptly to relieve the necessity of the residents or to preserve the property of the issuer;

(2) a case in which it is necessary to preserve or protect the public health of the residents of the issuer;

(3) a case of unforeseen damage to public machinery, equipment, or other property;

(4) a contract for personal or professional services;

(5) work done by employees of the issuer and paid for as the work progresses;

(6) the purchase of any land, building, existing utility system, or right-of-way for authorized needs and purposes;

(7) expenditures for or relating to improvements in municipal water systems, sewer systems, streets, or drainage, if at least one-third of the cost of the improvements is to be paid by special assessments levied against properties to be benefitted by the improvements;

(8) a case in which the entire contractual obligation is to be paid from bond funds or current funds or in which an advertisement for bids has previously been published in accordance with this subchapter but the current funds or bond funds are not adequate to permit the awarding of the contract and certificates are to be awarded to provide for the deficiency;

(9) the sale of a public security, as that term is defined by Section 1204.001, Government Code;

(10) a municipal procurement of a kind that, under Chapter 252, is not required to be made in accordance with competitive bidding procedures like those prescribed by this subchapter; or

(11) a county contract that, under the County Purchasing Act (Subchapter C, Chapter 262), is not required to be made in accordance with competitive bidding procedures like those prescribed by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 16, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.298, eff. Sept. 1, 2001.

Sec. 271.0565. PRE-BID CONFERENCE. (a) The commissioners court of a county or the governing body of a district or authority created under Section 59, Article XVI, Texas Constitution, if the governing body is the commissioners court of the county in which the district is located, may require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of prospective bidders.

(b) After a conference is conducted under Subsection (a), any additional required notice for the proposed contract may be sent by certified mail, return receipt requested, only to prospective bidders who attended the conference. Notice under this subsection is not subject to the requirements of Section 271.055.

Added by Acts 2001, 77th Leg., ch. 255, Sec. 3, eff. May 22, 2001. Amended by Acts 2003, 78th Leg., ch. 660, Sec. 2, eff. Sept. 1, 2003. Reenacted and amended by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 13.001, eff. September 1, 2005.

Sec. 271.057. AWARD OF CONTRACT. (a) Except as provided by Subsection (b), a contract let under this subchapter for the construction of public works or the purchase of materials, equipment, supplies, or machinery and for which competitive bidding is required by this subchapter must be let to the lowest responsible bidder and, as the governing body determines, may be let on a lump-sum basis or unit price basis.

(b) The commissioners court may condition acceptance of a bid on compliance with a requirement for attendance at a mandatory pre-bid conference under Section 271.0565.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 255, Sec. 4, eff. May 22, 2001.

Sec. 271.058. AUTHORITY TO REJECT BIDS. The governing body may

reject any and all bids submitted for a contract for which competitive bidding is required by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.059. CONTRACTOR'S BONDS. If a contract is for the construction of public works and is required by this subchapter to be submitted to competitive bidding, the successful bidder must execute a good and sufficient payment bond and performance bond. The bonds must each be:

(1) in the full amount of the contract price; and

(2) executed, in accordance with Chapter 2253, Government Code, with a surety company authorized to do business in this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(17), eff. Sept. 1, 1995.

Sec. 271.060. CHANGE ORDERS. (a) After performance of a construction contract begins, a governing body may approve change orders if necessary to:

(1) make changes in plans or specifications; or

(2) decrease or increase the quantity of work to be performed or materials, equipment, or supplies to be furnished.

(b) The total price of a contract may not be increased by a change order unless provision has been made for the payment of the added cost by the appropriation of current funds or bond funds for that purpose, by the authorization of the issuance of certificates, or by a combination of those procedures.

(c) A contract with an original contract price of $1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than $1 million increases the contract amount to $1 million or more, subsequent change orders may not increase the revised contract amount by more than 25 percent.

(d) A governing body may grant authority to an official or employee responsible for purchasing or for administering a contract to approve a change order that involves an increase or decrease of $50,000 or less.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 479 (H.B. 679), Sec. 2, eff. June 17, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.11, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(34), eff. September 1, 2013.

Sec. 271.061. COMPENSATION ON UNIT PRICE CONTRACTS. If a contract is let on a unit price basis, the compensation paid to the contractor must be based on the actual quantities of items constructed or supplied.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.062. CERTAIN CONTRACTS NOT REQUIRED TO BE IN WRITING. A contract executed under Section 271.054 or 271.056 is not required to be in writing if the work to be performed under the contract:
(1) is legal services;
(2) is to be done by the regular salaried employees of the issuer; or
(3) is to be paid for as the work progresses.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.063. UNCONSTITUTIONAL PROCEDURE CORRECTED BY RESOLUTION OF ISSUER. If a procedure used under this subchapter is held to be in violation of the state or federal constitution, an issuer by resolution may provide an alternative procedure that conforms to the constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.064. CRIMINAL PENALTIES. (a) An officer or employee of an issuer commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential,

or component purchases to avoid the competitive bidding requirements of Section 271.054. An offense under this subsection is a Class B misdemeanor.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 285, Sec. 24, eff. September 1, 2011.

(c) An officer or employee of an issuer commits an offense if the officer or employee intentionally or knowingly violates this subchapter, other than by conduct described by Subsection (a). An offense under this subsection is a Class C misdemeanor.

Added by Acts 1989, 71st Leg., ch. 1250, Sec. 18, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 20, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 24, eff. September 1, 2011.

SUBCHAPTER D. STATE COOPERATION IN LOCAL PURCHASING PROGRAMS

Sec. 271.081. DEFINITION. In this subchapter, "local government" means a county, municipality, special district, school district, junior college district, a local workforce development board created under Section 2308.253, Government Code, or other legally constituted political subdivision of the state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1004, Sec. 4, eff. Sept. 1, 2001.

Sec. 271.082. PURCHASING PROGRAM. (a) The comptroller shall establish a program by which the comptroller performs purchasing services for local governments. The services must include:

(1) the extension of state contract prices to participating local governments when the comptroller considers it feasible;

(2) solicitation of bids on items desired by local governments if the solicitation is considered feasible by the comptroller and is desired by the local government; and

(3) provision of information and technical assistance to local governments about the purchasing program.

(b) The comptroller may charge a participating local government an amount not to exceed the actual costs incurred by the comptroller

in providing purchasing services to the local government under the program.

(c) The comptroller may adopt rules and procedures necessary to administer the purchasing program. Before adopting a rule under this subsection, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b), Government Code, are met.

(d) The comptroller may advertise in any available media or otherwise promote the purchasing program to further the purposes of this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.103, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 356 (S.B. 59), Sec. 1, eff. June 7, 2021.

Sec. 271.083. LOCAL GOVERNMENT PARTICIPATION. (a) A local government may participate in the purchasing program of the commission, including participation in purchases that use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, by filing with the commission a resolution adopted by the governing body of the local government requesting that the local government be allowed to participate on a voluntary basis, and to the extent the commission deems feasible, and stating that the local government will:

(1) designate an official to act for the local government in all matters relating to the program, including the purchase of items from the vendor under any contract, and that the governing body will direct the decisions of the representative;

(2) be responsible for:

(A) submitting requisitions to the commission under any contract; or

(B) electronically sending purchase orders directly to vendors, or complying with commission procedures governing a reverse auction purchase, and electronically sending to the commission reports on actual purchases made under this paragraph that provide the information and are sent at the times required by the commission;

(3) be responsible for making payment directly to the vendor; and

(4) be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

(b) A local government that purchases an item under a state contract or under a reverse auction procedure, as defined by Section 2155.062(d), Government Code, sponsored by the commission satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 393, Sec. 3.07(2), eff. September 1, 2009.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 428, Sec. 1, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 746, Sec. 6, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 494, Sec. 5, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 436, Sec. 5, eff. May 28, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 3.07(2), eff. September 1, 2009.

SUBCHAPTER E. STATE INTERCEPT TO INCREASE CREDIT RATING

Sec. 271.091. DEFINITIONS. In this subchapter:

(1) "Local government" means a municipality, county, or hospital district of the State of Texas.

(2) "Payment" means the local sales and use tax authorized by the Municipal Sales and Use Tax Act (Chapter 321, Tax Code), the County Sales and Use Tax Act (Chapter 323, Tax Code), and Subchapter E, Chapter 285, Health and Safety Code.

(3) "Paying agent" means the financial institution that is designated by a local government as its agent for the payment of the principal of and interest on the obligation.

(4) "Obligation" means bonds, notes, certificates of obligation, and other obligations authorized to be issued by the local government.

(5) "Agreement" means the document referred to in Section 271.092 and Section 271.093.

(6) "Board" means the Bond Review Board.

(7) "Comptroller" means the comptroller of public accounts.

Added by Acts 1993, 73rd Leg., ch. 827, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.299, eff. Sept. 1, 2001.

Sec. 271.092. AGREEMENT WITH TEXAS BOND REVIEW BOARD AND COMPTROLLER. Prior to the issuance of any obligation, the governing body of any local government may notify the board of the proposed issuance of an obligation and enter into an agreement with the board to authorize and direct the comptroller to withhold from such local government sufficient money from any payment to which such local government may be entitled and apply so much as shall be necessary to pay the principal of and interest on such obligation then due and to continue withholding additional payments until an amount sufficient to satisfy the amount then due has been met.

Added by Acts 1993, 73rd Leg., ch. 827, Sec. 1, eff. Aug. 30, 1993.

Sec. 271.093. FORM OF AGREEMENT; CONDITIONS. (a) The agreement shall set forth the following:

(1) the proposed date of issuance of the obligation and the name and series of the proposed obligation;

(2) each payment date with respect to the obligation and the principal of and interest on the obligation coming due on each such date; and

(3) the name and address of the financial institution serving as paying agent for the obligation to whom any payment by the comptroller should be made.

(b) This subchapter does not require or permit the state to make an appropriation to any local government and shall not be construed as creating an indebtedness of the state. Any agreement made pursuant to this subchapter shall contain a statement to that effect.

(c) The agreement terminates at the time the final payment of the principal of and interest on the obligation is made or the obligation is refunded.

Added by Acts 1993, 73rd Leg., ch. 827, Sec. 1, eff. Aug. 30, 1993.

Sec. 271.094. NOTICE, DEPOSIT OF DEBT SERVICE, AUTHORIZATION, AND TRANSMITTAL. (a) If a local government enters into an agreement with the board under Section 271.092, the board on notification from the local government, the custodian bank, or the paying agent for the local government that the local government is unable or has failed to pay amounts as required by the agreement or to pay principal of or interest on the obligation when due, shall notify the comptroller, who shall withhold sufficient money from any payment to which such local government may be entitled and apply so much thereof as shall be necessary to pay the amounts then due as provided in this section.

(b) The local government may in the agreement agree to make monthly deposits of one-sixth of the semiannual debt service requirement, or such other amount at such other times as specified in the agreement, into an interest and sinking fund in a custodian bank. If a bank agrees to serve as custodian for the interest and sinking fund, it shall be the duty of the bank to notify the board if the agreed upon amount of funds is not deposited each month or other specified time on a timely basis as specified in the agreement.

(c) On receiving notification and direction from the board, the comptroller is authorized to withhold from any payment an amount equal to the amount to have been deposited by the local government pursuant to the agreement. The comptroller shall continue to withhold payments until the required amounts have been deposited in the interest and sinking fund with the custodian bank or with the paying agent. If the required amounts have not been deposited at the time interest on or principal of the obligation of the local government is required to be deposited pursuant to the agreement, the comptroller shall transmit, from payments withheld, the appropriate amount to the custodian bank or to the paying agent, as directed by the board.

(d) The board shall cause a copy of any notice given pursuant to this section to be promptly given to the local government.

Added by Acts 1993, 73rd Leg., ch. 827, Sec. 1, eff. Aug. 30, 1993.

Sec. 271.095. RIGHT TO PLEDGE PAYMENTS. (a) The local government may pledge payments to secure any obligation only if the amount of payments received by the local government in the fiscal year of the state preceding the proposed issuance equals or exceeds

the amount required in each year to pay the sum of an amount equal to two times (i) the maximum annual principal and interest requirements for the obligation, and (ii) the maximum annual principal and interest requirements on any additional obligation for which payments have been pledged. The local government shall provide evidence that these requirements are met.

(b) A pledge of payments pursuant to this subchapter is a first priority for application of payments and the comptroller shall apply such payments as provided by this subchapter prior to applying such payments pursuant to any other authorization to withhold or intercept such payments.

(c) While obligations which are the subject of an agreement remain outstanding, the local government may not repeal the sales tax or reduce the rate of the sales tax below the rate that would provide the amount required by Subsection (a), except as provided by this subsection. If at an election duly held in accordance with law a majority of the qualified voters approve the repeal of the sales tax, the local government shall, at the earliest practicable time, refund or defease the obligations, and after such defeasance or refunding the repeal shall become effective in accordance with law. If the qualified voters vote to reduce the rate of the sales tax, if such is provided for by law, below that which is required to provide the amount required by Subsection (a), the local government shall, at the earliest practicable time, refund or defease the obligations, and after such defeasance or refunding the reduction in rate shall become effective in accordance with law.

Added by Acts 1993, 73rd Leg., ch. 827, Sec. 1, eff. Aug. 30, 1993.

Sec. 271.096. ADMINISTRATION, RULES, FEES. The board shall administer the implementation of this subchapter and may adopt rules and set fees necessary for its administration.

Added by Acts 1993, 73rd Leg., ch. 827, Sec. 1, eff. Aug. 30, 1993.

SUBCHAPTER F. COOPERATIVE PURCHASING PROGRAM

Sec. 271.101. DEFINITIONS. In this subchapter:

(1) "Local cooperative organization" means an organization of governments established to provide local governments access to

contracts with vendors for the purchase of materials, supplies, services, or equipment.

(2) "Local government" means a county, municipality, special district, school district, junior college district, regional planning commission, or other political subdivision of the state.

Added by Acts 1995, 74th Leg., ch. 746, Sec. 7, eff. Aug. 28, 1995.

Sec. 271.102. COOPERATIVE PURCHASING PROGRAM PARTICIPATION. (a) A local government may participate in a cooperative purchasing program with another local government of this state or another state or with a local cooperative organization of this state or another state.

(b) A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative organization stating that the signing local government will:

(1) designate a person to act under the direction of, and on behalf of, that local government in all matters relating to the program;

(2) make payments to another participating local government or a local cooperative organization or directly to a vendor under a contract made under this subchapter, as provided in the agreement between the participating local governments or between a local government and a local cooperative organization; and

(3) be responsible for a vendor's compliance with provisions relating to the quality of items and terms of delivery, to the extent provided in the agreement between the participating local governments or between a local government and a local cooperative organization.

(c) A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

Added by Acts 1995, 74th Leg., ch. 746, Sec. 7, eff. Aug. 28, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 261 (S.B. 1281), Sec. 1, eff. May 29, 2015.

SUBCHAPTER G. PURCHASES FROM FEDERAL SCHEDULE SOURCES OF SUPPLY

Sec. 271.103. FEDERAL SUPPLY SCHEDULE SOURCES. (a) A local government may purchase goods or services available under Federal supply schedules of the United States General Services Administration to the extent permitted by federal law.

(b) A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

Added by Acts 1997, 75th Leg., ch. 826, Sec. 2, eff. June 18, 1997.

SUBCHAPTER I. ADJUDICATION OF CLAIMS ARISING UNDER WRITTEN CONTRACTS WITH LOCAL GOVERNMENTAL ENTITIES

Sec. 271.151. DEFINITIONS. In this subchapter:

(1) "Adjudication" of a claim means the bringing of a civil suit and prosecution to final judgment in county or state court and includes the bringing of an authorized arbitration proceeding and prosecution to final resolution in accordance with any mandatory procedures established in the contract subject to this subchapter for the arbitration proceedings.

(2) "Contract subject to this subchapter" means:

(A) a written contract stating the essential terms of the agreement for providing goods or services to the local governmental entity that is properly executed on behalf of the local governmental entity; or

(B) a written contract, including a right of first refusal, regarding the sale or delivery of not less than 1,000 acre-feet of reclaimed water by a local governmental entity intended for industrial use.

(3) "Local governmental entity" means a political subdivision of this state, other than a county or a unit of state government, as that term is defined by Section 2260.001, Government Code, including a:

(A) municipality;

(B) public school district and junior college district; and

(C) special-purpose district or authority, including any levee improvement district, drainage district, irrigation

district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, emergency service organization, and river authority.

Added by Acts 2005, 79th Leg., Ch. 604 (H.B. 2039), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 2, eff. June 14, 2013.

Sec. 271.152. WAIVER OF IMMUNITY TO SUIT FOR CERTAIN CLAIMS. A local governmental entity that is authorized by statute or the constitution to enter into a contract and that enters into a contract subject to this subchapter waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of the contract, subject to the terms and conditions of this subchapter.

Added by Acts 2005, 79th Leg., Ch. 604 (H.B. 2039), Sec. 1, eff. September 1, 2005.

Sec. 271.153. LIMITATIONS ON ADJUDICATION AWARDS. (a) Except as provided by Subsection (c), the total amount of money awarded in an adjudication brought against a local governmental entity for breach of a contract subject to this subchapter is limited to the following:

(1) the balance due and owed by the local governmental entity under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work the contractor is directed to perform by a local governmental entity in connection with the contract;

(3) reasonable and necessary attorney's fees that are equitable and just; and

(4) interest as allowed by law, including interest as calculated under Chapter 2251, Government Code.

(b) Damages awarded in an adjudication brought against a local

governmental entity arising under a contract subject to this subchapter may not include:

(1) consequential damages, except as expressly allowed under Subsection (a)(1);

(2) exemplary damages; or

(3) damages for unabsorbed home office overhead.

(c) Actual damages, specific performance, or injunctive relief may be granted in an adjudication brought against a local governmental entity for breach of a contract described by Section 271.151(2)(B).

Added by Acts 2005, 79th Leg., Ch. 604 (H.B. 2039), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 8, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 226 (H.B. 345), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 3, eff. June 14, 2013.

Sec. 271.154. CONTRACTUAL ADJUDICATION PROCEDURES ENFORCEABLE. Adjudication procedures, including requirements for serving notices or engaging in alternative dispute resolution proceedings before bringing a suit or an arbitration proceeding, that are stated in the contract subject to this subchapter or that are established by the local governmental entity and expressly incorporated into the contract or incorporated by reference are enforceable except to the extent those procedures conflict with the terms of this subchapter.

Added by Acts 2005, 79th Leg., Ch. 604 (H.B. 2039), Sec. 1, eff. September 1, 2005.

Sec. 271.155. NO WAIVER OF OTHER DEFENSES. This subchapter does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity.

Added by Acts 2005, 79th Leg., Ch. 604 (H.B. 2039), Sec. 1, eff.

September 1, 2005.

Sec. 271.156. NO WAIVER OF IMMUNITY TO SUIT IN FEDERAL COURT. This subchapter does not waive sovereign immunity to suit in federal court.

Added by Acts 2005, 79th Leg., Ch. 604 (H.B. 2039), Sec. 1, eff. September 1, 2005.

Sec. 271.157. NO WAIVER OF IMMUNITY TO SUIT FOR TORT LIABILITY. This subchapter does not waive sovereign immunity to suit for a cause of action for a negligent or intentional tort.

Added by Acts 2005, 79th Leg., Ch. 604 (H.B. 2039), Sec. 1, eff. September 1, 2005.

Sec. 271.158. NO GRANT OF IMMUNITY TO SUIT. Nothing in this subchapter shall constitute a grant of immunity to suit to a local governmental entity.

Added by Acts 2005, 79th Leg., Ch. 604 (H.B. 2039), Sec. 1, eff. September 1, 2005.

Sec. 271.160. JOINT ENTERPRISE. A contract entered into by a local government entity is not a joint enterprise for liability purposes.

Added by Acts 2005, 79th Leg., Ch. 604 (H.B. 2039), Sec. 1, eff. September 1, 2005.

SUBCHAPTER J. DESIGN-BUILD PROCEDURES FOR CERTAIN CIVIL WORKS PROJECTS

Sec. 271.181. DEFINITIONS. In this subchapter:

Without reference to the amendment of this subdivision, this subchapter was repealed by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 5.01(3), eff. September 1, 2011

(2) "Civil works project" means:

(A) roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, navigation channels, dredge material placement areas, airport runways and taxiways, storm drainage and flood control projects, or transit projects;

(B) types of projects or facilities related to those described by Paragraph (A) and associated with civil engineering construction; and

(C) buildings or structures that are incidental to projects or facilities that are described by Paragraphs (A) and (B) and that are primarily civil engineering construction projects.

Without reference to the amendment of this subdivision, this subchapter was repealed by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 5.01(3), eff. September 1, 2011

(6) "Local governmental entity" means a municipality, a county, a river authority, a defense base development authority established under Chapter 379B, a board of trustees under Chapter 54, Transportation Code, a municipally owned water utility with a separate governing board appointed by the governing body of a municipality, or any other special district or authority authorized by law to enter into a public works contract for a civil works project. The term does not include a regional tollway authority created under Chapter 366, Transportation Code, a regional mobility authority created under Chapter 370, Transportation Code, or a water district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, with a population of less than 50,000.

Added by Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 6, eff. September 1, 2007.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 21, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 5.01(3), eff. September 1, 2011.

Without reference to the amendment of this section, this subchapter was repealed by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 5.01(3) effective September 1, 2011

Sec. 271.182. APPLICABILITY. (a) This subchapter applies to:

(1) a local governmental entity with a population of more than 100,000 within its geographic boundaries or service area;

(2) a board of trustees under Chapter 54, Transportation Code; and

(3) a municipally owned combined electric, water, and wastewater utility situated in an economically distressed area and located within 30 miles of the Lower Texas Gulf Coast.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 2, eff. June 17, 2011

(b) For purposes of Subsection (a), "combined" means that the utilities are managed and controlled by one board whose members are appointed by the governing body of the municipality and that the financing of capital improvements is secured from the revenue of all three utilities.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 22, eff. September 1, 2011

(b) For purposes of Subsection (a)(3), "combined" means that the utilities are managed and controlled by one board whose members are appointed by the governing body of the municipality and that the financing of capital improvements is secured from the revenue of all three utilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 6, eff. September 1, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 135 (S.B. 1047), Sec. 1, eff. May 23, 2009.

Acts 2009, 81st Leg., R.S., Ch. 725 (S.B. 229), Sec. 1, eff. June 19, 2009.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 22, eff. September 1, 2011.
Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 2, eff. June 17, 2011.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 5.01(3), eff. September 1, 2011.

Without reference to the amendment of this section, this subchapter was repealed by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 5.01(3) effective September 1, 2011

Sec. 271.186. LIMITATION ON NUMBER OF PROJECTS.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 3

(a) During the first four years that this subchapter applies to a local governmental entity under Section 271.182:

(1) a local governmental entity with a population of 500,000 or more may, under this subchapter, enter into contracts for not more than three projects in any fiscal year;

(2) a local governmental entity with a population of 100,000 or more but less than 500,000 or a board of trustees under Chapter 54, Transportation Code, may, under this subchapter, enter into contracts for not more than two projects in any fiscal year; and

(3) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into a contract for not more than one civil works project in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 23

(a) During the first four years that this subchapter applies to a local governmental entity under Section 271.182:

(1) a local governmental entity with a population of 500,000 or more may, under this subchapter, enter into contracts for

not more than three projects in any fiscal year;

(2) a local governmental entity with a population of 100,000 or more but less than 500,000 and a board of trustees under Chapter 54, Transportation Code, may, under this subchapter, enter into contracts for not more than two projects in any fiscal year; and

(3) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into a contract for not more than one civil works project in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 3

(b) After the period described by Subsection (a):

(1) a local governmental entity with a population of 500,000 or more may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;

(2) a local governmental entity with a population of 100,000 or more but less than 500,000 or a board of trustees under Chapter 54, Transportation Code, may, under this subchapter, enter into contracts for not more than four projects in any fiscal year; and

(3) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 23

(b) After the period described by Subsection (a):

(1) a local governmental entity with a population of 500,000 or more may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;

(2) a local governmental entity with a population of 100,000 or more but less than 500,000 and a board of trustees under Chapter 54, Transportation Code, may, under this subchapter, enter into contracts for not more than four projects in any fiscal year; and

(3) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts.

Added by Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 6, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 23, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 5.01(3), eff. September 1, 2011.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 271.901. PROCEDURE FOR AWARDING CONTRACT IF MUNICIPALITY OR DISTRICT RECEIVES IDENTICAL BIDS. (a) If a municipality or district is required to accept bids on a contract and receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the municipality or district shall enter into a contract with only one of those bidders and must reject all other bids.

(b) If only one of the bidders submitting identical bids is a resident of the municipality or district, the municipality or district must select that bidder. If two or more of the bidders submitting identical bids are residents of the municipality or district, the municipality or district must select one of those bidders by the casting of lots. In all other cases, the municipality or district must select from the identical bids by the casting of lots.

(c) The casting of lots must be in a manner prescribed by the mayor of the municipality or the governing body of the district and must be conducted in the presence of the governing body of the municipality or district. All qualified bidders or their legal representatives may be present at the casting of lots.

(d) This section does not prohibit a municipality or district from rejecting all bids.

(e) This section applies to all municipalities and districts required by general or special law or by municipal ordinance or charter to accept bids and award contracts on the basis of the lowest and best bid, but does not apply to bidding for contracts to act as a depository for public funds or as a depository for school funds under Subchapter G, Chapter 45, Education Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 62(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 6.71, eff. Sept. 1, 1997.

Sec. 271.902. PROHIBITION OF CONFLICT OF INTEREST IN PURCHASE

BY MUNICIPALITY OR COUNTY FROM COOPERATIVE ASSOCIATIONS. If a member of the governing body or an appointed board or commission of a municipality or county belongs to a cooperative association, the municipality or county may purchase equipment or supplies from the association only if no member of the governing body, board, or commission will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 271.903. COMMITMENT OF CURRENT REVENUE. (a) If a contract for the acquisition, including lease, of real or personal property retains to the governing body of a local government the continuing right to terminate at the expiration of each budget period of the local government during the term of the contract, is conditioned on a best efforts attempt by the governing body to obtain and appropriate funds for payment of the contract, or contains both the continuing right to terminate and the best efforts conditions, the contract is a commitment of the local government's current revenues only.

(b) In this section, "local government" means a municipality, county, school district, special purpose district or authority, or other political subdivision of this state.

Added by Acts 1993, 73rd Leg., ch. 104, Sec. 2, eff. May 7, 1993.

Sec. 271.904. ENGINEERING, ARCHITECTURAL, OR LAND SURVEYING SERVICES CONTRACTS: INDEMNIFICATION LIMITATIONS; DUTIES OF ENGINEER, ARCHITECT, OR LAND SURVEYOR. (a) A covenant or promise in, in connection with, or collateral to a contract for engineering, architectural, or land surveying services to which a governmental agency is a party is void and unenforceable if the covenant or promise provides that a licensed engineer, registered architect, or land surveyor whose work product is the subject of the contract must indemnify or hold harmless the governmental agency against liability for damage, other than liability for damage to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a

subcontractor or supplier committed by the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control.

(b) Except as provided by Subsection (c), a covenant or promise in, in connection with, or collateral to a contract for engineering, architectural, or land surveying services to which a governmental agency is a party is void and unenforceable if the covenant or promise provides that a licensed engineer, registered architect, or land surveyor whose work product is the subject of the contract must defend a party, including a third party, against a claim based wholly or partly on the negligence of, fault of, or breach of contract by the governmental agency, the agency's agent, the agency's employee, or other entity, excluding the engineer, architect, or land surveyor or that person's agent, employee, or subconsultant, over which the governmental agency exercises control. A covenant or promise may provide for the reimbursement of a governmental agency's reasonable attorney's fees in proportion to the engineer's, architect's, or land surveyor's liability.

(c) Notwithstanding Subsection (b), a governmental agency may require in a contract for engineering, architectural, or land surveying services to which the governmental agency is a party that the engineer, architect, or land surveyor name the governmental agency as an additional insured under the engineer's, architect's, or land surveyor's general liability insurance policy and provide any defense provided by the policy.

(d) A contract for engineering, architectural, or land surveying services to which a governmental agency is a party must require a licensed engineer, registered architect, or land surveyor to perform services:

(1) with the professional skill and care ordinarily provided by competent engineers, architects, or land surveyors practicing under the same or similar circumstances and professional license; and

(2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer, architect, or land surveyor.

(e) In a contract for engineering, architectural, or land surveying services to which a governmental agency is a party, a provision establishing a different standard of care than a standard described by Subsection (d) is void and unenforceable. If a contract

contains a void and unenforceable provision, the standard of care described by Subsection (d) applies.

(f) In this section:

(1) "Governmental agency" has the meaning assigned by Section 271.003.

(2) "Land surveyor" means a registered professional land surveyor or licensed state land surveyor as those terms are defined by Section 1071.002, Occupations Code.

(g) Nothing in this section prohibits a governmental agency in a contract for engineering, architectural, or land surveying services to which the governmental agency is a party from including and enforcing conditions that relate to the scope, fees, and schedule of a project in the contract.

Added by Acts 1995, 74th Leg., ch. 746, Sec. 8, eff. Aug. 28, 1995. Amended by Acts 2001, 77th Leg., ch. 351, Sec. 5, eff. Sept. 1, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 8, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 757 (H.B. 2049), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 879 (H.B. 3021), Sec. 2, eff. September 1, 2017.

Acts 2025, 89th Leg., R.S., Ch. 306 (S.B. 687), Sec. 7, eff. September 1, 2025.

Sec. 271.9041. APPRAISAL SERVICE CONTRACTS; INDEMNIFICATION LIMITATIONS; DUTIES OF APPRAISER. (a) In this section, "governmental agency" has the meaning assigned by Section 271.003.

(b) This section applies only to a contract for appraisal services for real property entered into by a licensed appraiser and a governmental agency.

(c) A provision of a contract for appraisal services, or a promise in connection with the contract, is void and unenforceable if the provision requires a licensed appraiser to indemnify or hold harmless a governmental agency against liability for damage, other than damage to the extent the damage is caused by or results from an act of:

(1) negligence;

(2) intentional tort;

(3) intellectual property infringement; or

(4) failure to pay:

(A) a subcontractor or supplier committed by the appraiser or the appraiser's agent;

(B) a consultant under contract; or

(C) another person over which the appraiser exercises control.

(d) Except as provided by Subsection (e)(2), a provision of a contract for appraisal services, or a promise in connection with the contract, is void and unenforceable if the provision requires a licensed appraiser to defend a person against a claim based wholly or partly on the negligence or fault of, or breach of contract by:

(1) the governmental agency that is a party to the contract;

(2) an employee or agent of the governmental agency; or

(3) another person over which the governmental agency exercises control, other than the appraiser or an employee, agent, or consultant of the appraiser.

(e) A contract for appraisal services may require:

(1) the reimbursement of a governmental agency's reasonable attorney's fees in proportion to an appraiser's liability; and

(2) an appraiser to name a governmental agency as an additional insured under the appraiser's general liability insurance policy and provide any defense provided by the policy.

(f) A contract for appraisal services must require a licensed appraiser to perform services:

(1) with the professional skill and care ordinarily provided by competent appraisers under the same or similar circumstances and professional license; and

(2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent appraiser.

(g) A provision of a contract for appraisal services establishing a different standard of care than a standard described by Subsection (f) is void and unenforceable. If a contract contains a void and unenforceable provision described by this subsection, the standard of care described by Subsection (f) applies.

(h) This section does not prohibit a governmental agency from including in and enforcing a provision in a contract for appraisal services that relates to the scope, fees, and schedule of a project

in the contract.

Added by Acts 2023, 88th Leg., R.S., Ch. 162 (S.B. 1766), Sec. 1, eff. September 1, 2023.

Sec. 271.905. CONSIDERATION OF LOCATION OF BIDDER'S PRINCIPAL PLACE OF BUSINESS. (a) In this section, "local government" means a municipality, a county, or another political subdivision authorized under this title to purchase real property or personal property that is not affixed to real property. The term does not include a school district.

(b) In purchasing under this title any real property or personal property that is not affixed to real property, if a local government receives one or more bids from a bidder whose principal place of business is in the local government and whose bid is within three percent of the lowest bid price received by the local government from a bidder who is not a resident of the local government, the local government may enter into a contract with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government.

(c) This section does not prohibit a local government from rejecting all bids.

Added by Acts 1999, 76th Leg., ch. 996, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 480, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 513 (H.B. 1869), Sec. 1, eff. June 17, 2011.

Sec. 271.9051. CONSIDERATION OF LOCATION OF BIDDER'S PRINCIPAL PLACE OF BUSINESS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that is authorized under this title to purchase real property or personal property that is not affixed to

real property.

(b) In purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract for construction services in an amount of less than $100,000 or a contract for other purchases in an amount of less than $500,000 with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

(c) This section does not prohibit a municipality from rejecting all bids.

(d) This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

Added by Acts 2005, 79th Leg., Ch. 1205 (H.B. 664), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 660 (H.B. 2082), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 9, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 513 (H.B. 1869), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.12, eff. September 1, 2011.

Sec. 271.906. REVERSE AUCTION METHOD OF PURCHASING. (a) A local government, as defined by Section 271.081, may use the reverse auction procedure, as defined by Section 2155.062(d), Government

Code, in purchasing goods and services in place of any other method of purchasing that would otherwise apply to the purchase.

(b) A local government that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the local government and fair to vendors.

Added by Acts 2001, 77th Leg., ch. 436, Sec. 6, eff. May 28, 2001.

Sec. 271.907. VENDORS THAT MEET OR EXCEED AIR QUALITY STANDARDS. (a) In this section, "governmental agency" has the meaning assigned by Section 271.003.

(b) This section applies only to a contract to be performed, wholly or partly, in a nonattainment area or in an affected county, as those terms are defined by Section 386.001, Health and Safety Code.

(c) A governmental agency procuring goods or services may:

(1) give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality; or

(2) require that a vendor demonstrate that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

(d) The preference may be given only if the cost to the governmental agency for the goods or services would not exceed 105 percent of the cost of the goods or services provided by a vendor who does not meet the standards.

Added by Acts 2003, 78th Leg., ch. 1331, Sec. 20, eff. June 20, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 14.02, eff. Jan. 11, 2004; Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 2, eff. Oct 20, 2003.

Sec. 271.908. LOCAL GOVERNMENT CONTRACTS WITH PRIVATE ENTITIES FOR CIVIL WORKS PROJECTS AND IMPROVEMENTS TO REAL PROPERTY. (a) In this section, "civil works project" and "local governmental entity" have the meanings assigned by Section 271.181.

(b) A local governmental entity may contract with a private

entity to act as the local governmental entity's agent in the design, development, financing, maintenance, operation, or construction, including oversight and inspection, of:

(1) a civil works project; or

(2) an improvement to real property.

(c) A local governmental entity contracting under this section shall:

(1) select the private entity based on the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) The selected private entity shall comply with:

(1) Chapters 1001 and 1051, Occupations Code;

(2) all laws relating to procurement of professional services under Chapter 2254, Government Code; and

(3) all laws relating to procurement under this chapter that apply to the local governmental entity that selected the private entity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1024 (H.B. 2729), Sec. 1, eff. June 17, 2011.

CHAPTER 272. SALE OR LEASE OF PROPERTY BY MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 272.001. NOTICE OF SALE OR EXCHANGE OF LAND BY POLITICAL SUBDIVISION; EXCEPTIONS. (a) Except for the types of land and interests covered by Subsection (b), (g), (h), (i), (j), or (l), and except as provided by Section 253.008, before land owned by a political subdivision of the state may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication.

(b) The notice and bidding requirements of Subsection (a) do

not apply to the types of land and real property interests described by this subsection and owned by a political subdivision. The land and those interests described by this subsection may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the underlying fee simple. The fair market value is determined by an appraisal obtained by the political subdivision that owns the land or interest or, in the case of land or an interest owned by a home-rule municipality, the fair market value may be determined by the price obtained by the municipality at a public auction for which notice to the general public is published in the manner described by Subsection (a). The notice of the auction must include, instead of the content required by Subsection (a), a description of the land, including its location, the date, time, and location of the auction, and the procedures to be followed at the auction. The appraisal or public auction price is conclusive of the fair market value of the land or interest, regardless of any contrary provision of a home-rule charter. This subsection applies to:

(1) narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;

(2) streets or alleys, owned in fee or used by easement;

(3) land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;

(4) land that the political subdivision wants to have developed by contract with an independent foundation;

(5) a real property interest conveyed to a governmental entity that has the power of eminent domain;

(6) a municipality's land that is located in a reinvestment zone designated as provided by law and that the municipality desires to have developed under a project plan adopted by the municipality for the zone; or

(7) a property interest owned by a defense base development authority established under Chapter 378, Local Government Code, as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999.

(c) The land or interests described by Subsections (b)(1) and (2) may be sold to:

(1) abutting property owners in the same subdivision if the land has been subdivided; or

(2) abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

(d) This section does not require the governing body of a political subdivision to accept any bid or offer or to complete a sale or exchange.

(e) This section does not apply to land in the permanent school fund that is authorized by legislation to be exchanged for other land of at least equal value.

(f) The fair market value of land, an easement, or other real property interest in exchange for land, an easement, or other real property interest as authorized by Subsection (b)(3) is conclusively determined by an appraisal obtained by the political subdivision. The cost of any streets, utilities, or other improvements constructed on the affected land or to be constructed by an entity other than the political subdivision on the affected land may be considered in determining that fair market value.

(g) A political subdivision may acquire or assemble land or real property interest, except by condemnation, and sell, exchange, or otherwise convey the land or interests to an entity for the development of low-income or moderate-income housing. The political subdivision shall determine the terms and conditions of the transactions so as to effectuate and maintain the public purpose. If conveyance of land under this subsection serves a public purpose, the land may be conveyed for less than its fair market value. In this subsection, "entity" means an individual, corporation, partnership, or other legal entity.

(h) A municipality, other than a municipality with a population of more than one million that is located primarily in a county with a population of 2.5 million or more, owning land within 5,000 feet of where the shoreline of a lake would be if the lake were filled to its storage capacity may, without notice or the solicitation of bids, sell the land to the person leasing the land for the fair market value of the land as determined by a certified appraiser. While land described by this subsection is under lease, the municipality owning the land may not sell the land to any person other than the person

leasing the land. To protect the public health, safety, or welfare and to ensure an adequate municipal water supply, property sold by the municipality under this subsection is not eligible for and the owner is not entitled to the exemption provided by Section 11.142(a), Water Code. The instrument conveying property under this subsection must include a provision stating that the exemption does not apply to the conveyance. In this subsection, "lake" means an inland body of standing water, including a reservoir formed by impounding the water of a river or creek but not including an impoundment of salt water or brackish water, that has a storage capacity of more than 10,000 acre-feet.

(i) A political subdivision that acquires land or a real property interest with funds received for economic development purposes from the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) may lease or convey the land or interest, without the solicitation of bids, to a private, for-profit entity or a nonprofit entity that is a party to a contract with the political subdivision if the land or interest will be used by the private, for-profit entity or the nonprofit entity in carrying out the purpose of the entity's grant or contract. The land or interest may be leased or conveyed without the solicitation of bids if the political subdivision adopts a resolution stating the conditions and circumstances for the lease or conveyance and the public purpose that will be achieved by the lease or conveyance.

(j) A political subdivision may donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property to an institution of higher education, as that term is defined by Section 61.003, Education Code, to promote a public purpose related to higher education. The political subdivision shall determine the terms and conditions of the transaction so as to effectuate and maintain the public purpose. A political subdivision may donate, exchange, convey, sell, or lease the real property interest for less than its fair market value and without complying with the notice and bidding requirements of Subsection (a).

(k) This section does not apply to sales or exchanges of land owned by a municipality operating a municipally owned electric or gas utility if the land is held or managed by the municipally owned utility, or by a division of the municipally owned electric or gas utility that constitutes the unbundled electric or gas operations of

the utility, provided that the governing body of the municipally owned utility shall adopt a resolution stating the conditions and circumstances for the sale or exchange and the public purpose that will be achieved by the sale or exchange. For purposes of this subsection, "municipally owned utility" includes a river authority engaged in the generation, transmission, or distribution of electric energy to the public, and "unbundled" operations are those operations of the utility that have, in the discretion of the utility's governing body, been functionally separated.

(l) The notice and bidding requirements provided by Subsection (a) do not apply to a donation or sale made under this subsection. A political subdivision may donate or sell for less than fair market value a designated parcel of land or an interest in real property to another political subdivision if:

(1) the land or interest will be used by the political subdivision to which it is donated or sold in carrying out a purpose that benefits the public interest of the donating or selling political subdivision;

(2) the donation or sale of the land or interest is made under terms that effect and maintain the public purpose for which the donation or sale is made; and

(3) the title and right to possession of the land or interest revert to the donating or selling political subdivision if the acquiring political subdivision ceases to use the land or interest in carrying out the public purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 63(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1243, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 282, Sec. 1, eff. June 6, 1991; Acts 1993, 73rd Leg., ch. 110, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 206, Sec. 2, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 429, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 509, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 948, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 17.01(40), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 311, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 296, Sec. 1, eff. May 29, 1999; Acts 1999, 76th Leg., ch. 405, Sec. 43, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 451, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 968, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1121, Sec. 1,

eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1030, Sec. 1, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 12.109(a), eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 12.109(b), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 179, Sec. 1, eff. May 29, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 329 (H.B. 2690), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 726 (H.B. 844), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 747 (H.B. 837), Sec. 1, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 158, eff. September 1, 2023.

Sec. 272.002. CONVEYANCES BY CERTAIN POLITICAL SUBDIVISIONS TO THE UNITED STATES FOR PURPOSES RELATED TO WATERWAYS. (a) This section applies to property, including land or an interest in land, that:

(1) is owned by:

(A) a county having a boundary coinciding with a part of the international boundary between the United States and Mexico;

(B) a county contiguous to a county described by Paragraph (A); or

(C) a municipal corporation, political subdivision, or district organized under the state constitution and statutes and located in a county described by Paragraph (A) or (B), including a municipality, independent school district, common school district, water improvement district, water control and improvement district, navigation district, road district, levee district, or drainage district; and

(2) is desired by the United States to enable a department or establishment of the United States to carry out a federal law in aid of navigation, flood control, or improvement of water courses and to accomplish the purposes specified by Section 2204.101, Government Code, and is necessary for the construction, operation, and maintenance of works required for those purposes.

(b) On the request of the United States through its proper officers, an entity described by Subsection (a)(1) may convey with or

without monetary consideration the title or an easement to the property to the United States or to another entity described by Subsection (a)(1) that has agreed by resolution of its governing body to acquire the property for conveyance to the United States.

(c) All rights conferred by law to the Port of Harlingen Authority to develop a navigation project and all improvements incidental, necessary, or convenient for that project are reserved for the authority. This section does not take away any right of the authority to dredge, widen, straighten, or otherwise improve the Arroyo-Colorado and all other lakes, bays, streams, or bodies of water within, or adjacent or appurtenant to, the boundaries of the authority as a navigation project or to construct turning basins, yacht basins, or port facilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(24), eff. Sept. 1, 1995.

Sec. 272.003. RENTAL OF OFFICE SPACE BY COUNTY OR MUNICIPALITY FOR UNEMPLOYMENT RELIEF ADMINISTRATION. (a) The commissioners court of a county or the governing body of a municipality may lease, rent, or provide office space to aid and cooperate with state and federal agencies engaged in the administration of relief to the unemployed or needy people of the state. The commissioners court or governing body may pay the regular monthly utility bills for the office space, including bills for electricity, gas, and water.

(b) If a majority of the commissioners court considers the office space essential to the proper administration of the state or federal agency, the court may pay for the space and the regular monthly utility bills out of the general fund of the county by warrants as in the payment of other obligations of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 272.004. TRANSFERS OF PROPERTY BY CERTAIN POLITICAL SUBDIVISIONS. (a) In this section, "political subdivision" has the same meaning as the term "issuer" under Section 1371.001, Government Code.

(b) A political subdivision may sell, lease as a lessee or lessor, or otherwise transfer property in the same manner as the

subregional board of a regional transportation authority under Sections 452.108(d) and (e), Transportation Code.

(c) A sale, lease, or other transfer of property under this section must be approved by a majority of the voters voting at an election held within the boundaries of the political subdivision if the agreement:

(1) involves the levy by the political subdivision of a tax in an amount sufficient to make payments due under the agreement; and

(2) is executed on or after September 1, 1999.

Added by Acts 1999, 76th Leg., ch. 1284, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.300, eff. Sept. 1, 2001.

Sec. 272.005. LEASE OF PROPERTY TO GOVERNMENTAL ENTITY. (a) To promote a public purpose of the political subdivision, a political subdivision may:

(1) lease property owned by the political subdivision to another political subdivision or an agency of the state or federal government; or

(2) make an agreement to provide office space in property owned by the political subdivision to the other political subdivision or agency.

(b) In acting under Subsection (a), the political subdivision:

(1) shall determine the terms of the lease or agreement so as to promote and maintain the public purpose;

(2) may provide for the lease of the property or provision of the office space at less than fair market value; and

(3) is not required to comply with any competitive purchasing procedure or any notice and publication requirement imposed by this chapter or other law.

Added by Acts 2007, 80th Leg., R.S., Ch. 245 (H.B. 2618), Sec. 1, eff. May 25, 2007.

Sec. 272.006. SALE OR TRANSFER OF LAW ENFORCEMENT VEHICLE. (a) In this section, "political subdivision" means a county, municipality, school district, junior college district, other special

district, or other subdivision of state government.

(b) A political subdivision may not sell or transfer a marked patrol car or other law enforcement motor vehicle to the public unless the political subdivision first removes any equipment or insignia that could mislead a reasonable person to believe that the vehicle is a law enforcement motor vehicle, including any police light, siren, amber warning light, spotlight, grill light, antenna, emblem, outline of an emblem, or emergency vehicle equipment.

(c) A political subdivision may not sell or transfer a marked patrol car or other political subdivision law enforcement motor vehicle to a security services contractor who is regulated by the Department of Public Safety and licensed under Chapter 1702, Occupations Code, unless each emblem or insignia that identifies the vehicle as a law enforcement motor vehicle is removed before the sale or transfer.

(d) A political subdivision that sells or transfers a marked patrol car or other law enforcement motor vehicle to the public in violation of this section is liable:

(1) for damages proximately caused by the use of that vehicle during the commission of a crime; and

(2) to this state for a civil penalty of $1,000.

(e) The attorney general may bring an action to recover the civil penalty imposed under Subsection (d)(2).

(f) Governmental immunity to suit and from liability is waived and abolished to the extent of liability created by Subsection (d).

Added by Acts 2015, 84th Leg., R.S., Ch. 274 (H.B. 473), Sec. 3, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1068 (H.B. 3223), Sec. 1, eff. September 1, 2017.

CHAPTER 273. ACQUISITION OF PROPERTY FOR PUBLIC PURPOSES BY MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

Sec. 273.001. ACQUISITION OF PROPERTY; EXERCISE OF POLICE POWER. (a) A municipality may, in accordance with this chapter, acquire property separately or jointly with another municipality or other governmental entity by gift, dedication, or purchase, with or without condemnation.

(b) The property must be located within the county where the municipality or other governmental entity is located. The property may be located inside or outside the corporate limits of the municipality.

(c) The property must be used for the following public purposes:

(1) parks and playgrounds;

(2) hospitals;

(3) the extension, improvement, and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, watersheds, and dams;

(4) the laying, building, maintenance, and construction of water mains;

(5) the laying, erection, establishment, and maintenance of necessary appurtenances or facilities that will furnish to the inhabitants of the municipality an abundant supply of wholesome water;

(6) sewage plants and systems;

(7) rights of way for water and sewer lines;

(8) airports and landing fields;

(9) incinerators and garbage disposal plants;

(10) streets, boulevards, alleys, or other public ways; or

(11) a right of way needed in connection with property used for any of these purposes.

(d) The municipality may exercise police power within an area acquired under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 273.002. CONDEMNATION. Condemnation of property under this chapter shall be in accordance with state law relating to eminent domain, which may be Chapter 21, Property Code, or any other state law governing and relating to the condemnation of land for public use by a municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 6, eff. September 1, 2011.

Sec. 273.003. NECESSARY ALTERATIONS. (a) If, in acting under this chapter, it is necessary for a municipality or other governmental entity to exercise the power of eminent domain, a police power, or any other power in order to make an alteration, including relocating, raising, lowering, rerouting, changing the grade, or altering the construction of a railroad, electric transmission, telegraph or telephone line, conduit, pole, property or facility, or pipeline outside the corporate limits of municipalities, the alteration shall be made at the sole expense of the municipality or other governmental entity.

(b) In this section, "sole expense" means the actual cost of an alteration made under Subsection (a) and of the provision of a comparable replacement without enhancement of the facility, after deducting the net salvage value derived from the old facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 273.004. CONTROL BY A MUNICIPALITY WITHIN ITS CORPORATE LIMITS. This chapter does not affect the existing lawful rights of a municipality to control the streets, alleys, public ways, and other public grounds within its corporate limits.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 273.005. MAINTENANCE, IMPROVEMENT, AND OPERATION OF PROPERTY. (a) A municipality, or a municipality and another governmental entity, that acquires property under this chapter may maintain, improve, operate, sell, and lease the property, and the improvements on the property.

(b) If the property is owned by two or more governmental entities, the entities may jointly manage, control, and operate the property by entering into a mutually agreeable contract.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 273.006. WARRANTS AND BONDS. The governing body of a municipality or the commissioners court of a county for the purpose of purchasing or condemning property under this chapter, and

improving or equipping the property, may issue negotiable warrants and bonds of the municipality or of the county and levy taxes to provide for the interest and sinking funds of the warrants and bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 273.007. USE; CHARGE FOR USE. (a) A municipality or other governmental entity acquiring property or making improvements to property under this chapter may make and enforce rules governing the use of the property and improvements as the municipality or other governmental entity may determine by ordinance.

(b) A municipality acquiring property or making improvements to property under this chapter may fix a reasonable charge for the use of the property or improvements as determined by the governing body of the municipality. If the property has been jointly acquired, the charge may be fixed by mutual agreement of the governing body of the municipality and other governmental entity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 273.008. SPECIAL TAX. (a) The governing body of a municipality and the commissioners court of a county may levy and collect a special tax for the purpose of improving, operating, maintaining, and conducting the property the municipality or county acquires under this chapter and for providing all suitable structures and facilities on that property.

(b) This special tax is in addition to and exclusive of a tax that may be levied for the interest and sinking fund of a bond issued under this chapter.

(c) A municipality acquiring property under this section may contract and expend its public funds in the joint or several operation and maintenance of a municipal function authorized by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 273.009. CUMULATIVE OF MUNICIPAL CHARTER PROVISIONS. This chapter is cumulative of municipal charter provisions relating to the

same subject.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 280. MISCELLANEOUS PROVISIONS AFFECTING ACQUISITION, SALE, OR LEASE OF PROPERTY BY MUNICIPALITIES AND COUNTIES

Sec. 280.001. LAND FOR USE OF UNITED STATES. (a) A municipality or county, separately or jointly, may acquire land for the use of the United States government, either by a lease for a term of years or in fee simple title.

(b) Land acquired under this section by a county must be located within the county. Land acquired under this section by a municipality must be located within the county in which the municipality is located.

(c) For the purpose of acquiring land under this section, a municipality or county may appropriate any available funds and issue time warrants in payment. If time warrants are issued, the provisions of Chapter 252 or Subchapter C of Chapter 262 shall be followed to the extent applicable.

(d) For the purpose of acquiring land under this section, a municipality or county may condemn land. The condemnation may be for any period of years or in fee simple title. Condemnation may be in the name of the municipality or county.

(e) Prior to the filing of a petition for condemnation, the commissioners court of the county or the governing body of the municipality shall estimate an amount of money to be the just compensation for the interest in the land taken, and the petition shall state that amount.

(f) Immediately after filing a condemnation suit, the municipality or county may take possession of the land by depositing with the county clerk the amount of money estimated. After a hearing as provided by law, if the special commissioners appointed under the condemnation statutes find the just compensation to be greater than the amount fixed by the commissioners court or governing body, an additional amount shall be deposited with the county clerk by the taking authority to equal the amount found by the special commissioners.

(g) After the date of the taking, which is the date of the deposit of the money estimated by the commissioners court or

governing body or the date of deposit of the amount fixed by the special commissioners if the taking is not desired until after the special commissioners have acted, the municipality or county may transfer the interest acquired by the taking to the United States government.

(h) A municipality or county may contract with the United States government obligating itself to acquire a lease-hold interest or fee simple title in land as authorized by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 40, eff. Sept. 1, 1999.

Sec. 280.002. ACQUISITION OF REAL PROPERTY PERMITTED IN CERTAIN CIRCUMSTANCES. (a) Except as provided by Subsection (d), a local government may accept ownership of property located in the jurisdiction of the local government if:

(1) the property is properly conveyed as a gift by a grantor who acquired title to the property from a debtor in default;

(2) the grantor sent to the local government by registered mail a notice of the grantor's intent to convey the property to the local government; and

(3) the conveyance instrument grants to the local government unencumbered title to the property.

(b) The notice required by Subsection (a)(2) must be delivered to the county clerk of the county or the municipal clerk or secretary of the municipality in which the property is located. The county clerk or the municipal clerk or secretary shall place the notice of the intended conveyance on the agenda for a meeting of the governing body of the local government within 60 days. The grantor or the grantor's representative shall appear before the governing body of the local government at the meeting to answer any questions about the property. The local government shall accept or reject the proposed conveyance within 90 days of the meeting.

(c) A grantor may convey title to property to a local government under Subsection (a) immediately after the governing body of the local government approves the conveyance.

(d) A local government may not accept property conveyed under this section if:

(1) an unabated nuisance exists on the property; or

(2) ownership of the property will subject the local government to liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), Chapter 361, Health and Safety Code, or Subchapter I, Chapter 26, Water Code.

(e) A local government that accepts property under this section may retain the property or dispose of the property by any method authorized by law.

(f) In this section, "local government" means a municipality or county.

(g) This section is cumulative of other statutory provisions relating to the same subject.

Added by Acts 1995, 74th Leg., ch. 775, Sec. 1, eff. Aug. 28, 1995.

Sec. 280.003. HOSPITAL SITES IN COUNTY OR MUNICIPALITY. (a) The commissioners court of a county or the governing body of a municipality may issue bonds that are payable from ad valorem taxes and use the proceeds from the sale of the bonds to acquire by purchase, condemnation, or both, land to be used for hospital purposes.

(b) A county or municipality that has sufficient money in its general fund may use money in that fund to acquire land to be used for hospital purposes.

(c) A county or municipality that owns land suitable for hospital purposes, including land acquired under Subsection (a) or (b), may donate the land to this state or to the United States for hospital purposes if this state or the United States agrees to erect and maintain a hospital on the land.

(d) A county or municipality may accept a nominal award as full compensation for land that is suitable for hospital purposes in a condemnation proceeding brought by this state or by the United States to acquire the land for hospital purposes.

(e) If bonds are issued under Subsection (a), the commissioners court or the governing body must impose the taxes in compliance with the applicable provisions of Subtitles A and C, Title 9, Government Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 10, eff. Sept. 1, 1999.

Sec. 280.004. REGIONAL BUSINESS CERTIFICATION PROGRAMS. (a) Any combination of counties, municipalities, special districts, or other political subdivisions, by ordinance, resolution, rule, order, or other means, may agree to establish a regional business certification program to be used in connection with the political subdivisions' purchasing procedures.

(b) A consolidated entity administering a program established under this section may adopt rules, regulations, or other provisions that are designed to streamline and centralize the certification process of qualified businesses, including small and emerging businesses, and that allow businesses, as a result of being certified by the program, to participate in the contracting and procurement process of any member entity involved in the regional business certification program.

(c) The purpose of this section is to permit participating political subdivisions the greatest possible flexibility to organize a regional business certification program most suitable to address the region's problems related to business certification.

Added by Acts 1999, 76th Leg., ch. 986, Sec. 1, eff. June 18, 1999. Renumbered from Sec. 280.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(86), eff. Sept. 1, 2001.

Sec. 280.005. FIREARM BUYBACK PROGRAMS PROHIBITED. A municipality or county may not adopt or enforce an ordinance, order, or other measure in which the municipality or county organizes, sponsors, or participates in a program that purchases or offers to purchase firearms with the intent to:

(1) remove firearms from circulation;

(2) reduce the number of firearms owned by civilians; or

(3) allow individuals to sell firearms without fear of criminal prosecution.

Added by Acts 2025, 89th Leg., R.S., Ch. 607 (H.B. 3053), Sec. 1, eff. September 1, 2025.

TITLE 9. PUBLIC BUILDINGS AND GROUNDS
SUBTITLE A. MUNICIPAL PUBLIC BUILDINGS AND GROUNDS
CHAPTER 281. MUNICIPAL CIVIC CENTER AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 281.001. SHORT TITLE. This chapter may be cited as the Civic Center Authority Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.002. DEFINITIONS. In this chapter:

(1) "Authority" means a civic center authority created under this chapter.

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

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. CREATION OF AUTHORITIES

Sec. 281.011. CHARACTERISTICS. (a) An authority is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) An authority may not impose taxes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.012. COMPOSITION. (a) An authority may include the area of any county or part of a county, including municipalities and other political subdivisions.

(b) An authority may consist of noncontiguous tracts.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.013. PETITION. (a) To create an authority, a petition requesting the creation must be filed with the county judge of the county in which the proposed authority is located. The petition must be accompanied by a deposit of $200.

(b) The deposit is to cover the costs of the notice required by Section 281.014(c). If the deposit exceeds the cost of the notice, the difference shall be refunded.

(c) The petition must include:

(1) the signatures of a majority of the members of the governing body of at least:

(A) one municipality, if the county in which the proposed authority is located has only one municipality; or

(B) two municipalities, if the county in which the proposed authority is located has two or more municipalities;

(2) a description of the boundaries of the proposed authority;

(3) the names of the persons recommended for the first board of directors;

(4) a statement of the desirability of or need for the creation of the authority; and

(5) the name of the proposed authority.

(d) The boundaries of the proposed authority may be described in the petition by:

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

(2) natural or artificial boundaries or survey lines; or

(3) if the proposed authority is composed entirely of municipalities, a statement that the authority is composed entirely of municipalities and a list of the municipalities in the proposed authority.

(e) The name of the proposed authority must consist of a word or phrase generally descriptive of the locale of the authority followed by the words "Civic Center Authority." The name may not be the same as the name of another authority in the same county.

(f) A copy of the petition shall be recorded in the county deed records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 111, Sec. 1, eff. Sept. 1, 1999.

Sec. 281.014. NOTICE. (a) When a petition is filed with the county judge, the judge shall set a date, time, and place for a hearing on the petition by the judge.

(b) The date of the hearing must be within 20 days after the date the petition is filed.

(c) The county judge shall issue a notice of the date, time, and place of the hearing that informs all persons of their right to

appear and contest the form and allegations of the petition and the desirability of or need for the creation of the proposed authority. Before the 10th day before the date of the hearing, the notice must be published at least one time in a newspaper having general circulation in the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.015. HEARING. (a) At the hearing, the county judge shall examine the petition to determine its sufficiency. The county judge may determine all issues raised regarding the sufficiency of the petition and the creation of the authority and may enter orders incidental to the issues.

(b) Any interested person may appear at the hearing, in person or by attorney, and offer testimony regarding the sufficiency of the petition and whether the creation of the authority is desirable or necessary.

(c) The county judge may adjourn the hearing from day to day.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.016. FINAL ORDER AND APPEAL. (a) The county judge shall grant the petition if the judge finds that the petition conforms to the requirements of Section 281.013 and that the creation of the authority is desirable or necessary. The judge by order shall declare the findings.

(b) If the county judge finds that the authority is neither desirable nor necessary, the judge by order shall deny the petition.

(c) Within 30 days after the date of the entry of the order, any person who signed the petition or who testified at the hearing may appeal the order to an appropriate district court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Sec. 281.021. BOARD OF DIRECTORS. (a) An authority must be governed by a board of directors composed of 5, 7, 9, or 11 directors.

(b) A majority of the directors constitute a quorum and a concurrence of the majority is sufficient in all matters relating to the business of the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.022. QUALIFICATIONS. A director must be at least 18 years old and a citizen of the state residing within the boundaries of the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.023. TERMS OF OFFICE; APPOINTMENTS; VACANCIES. (a) Each director is appointed for a term of office of two years.

(b) The term of office of the first board begins on the date the authority is created. The county judge shall appoint successor directors with the advice and consent of, and from among persons recommended by, all the municipalities within the authority that contract with the authority under this chapter.

(c) If a vacancy occurs on the board or in any office on the board, the board shall appoint a person to fill the vacancy for the unexpired term. However, if the number of directors at any time is less than a majority of the positions on the board because of the failure or refusal of one or more directors to qualify to serve, the death or incapacitation of one or more directors, or any other reason, on the petition of a resident of the authority the county judge shall appoint persons to fill the vacancies.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.024. BOND; OATHS OF OFFICE. (a) As soon as practicable after a director is appointed, the director shall execute a bond that is:

(1) in the amount of $5,000;

(2) payable to the authority; and

(3) conditioned that the director will faithfully perform the director's duties.

(b) Each director shall take the oath of office prescribed by

the constitution and a written oath that the director will not have an interest, directly or indirectly, in a contract with, or claim against, the authority except for a contract or claim expressly authorized by law or a warrant issued to the director as a fee of office.

(c) After a petition for the creation of an authority is granted, the first members of the board must execute their bonds and take the oaths. After the bonds are executed and the oaths are taken, the board shall meet and organize.

(d) The bond of a director on the first board must be approved by the county judge. The bond of a subsequent director must be approved by the board.

(e) The bond and oaths required by this section must be filed with the authority and the authority shall keep the bond and oaths in its records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.025. OFFICERS. (a) After executing the bonds and taking the oaths, the directors shall elect a president, vice-president, secretary, and any other officers the board considers necessary.

(b) The president is the chief executive officer of the authority and shall preside at each meeting of the board.

(c) The vice-president shall act as president if the president is absent or disabled. The secretary shall act as president if both the president and the vice-president are absent or disabled.

(d) The secretary shall provide for the proper keeping of the books and records of the authority. The board may appoint a director, the general manager, or any other employee as assistant or deputy secretary to assist the secretary, and that person may certify the authenticity of any record of the authority.

(e) A director of a state or national bank may serve as the authority's treasurer.

(f) The treasurer shall execute a bond, in an amount set by the board, conditioned that the treasurer will faithfully account for all money of which the treasurer assumes custody in the capacity of treasurer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.026. BYLAWS. The board may adopt bylaws to govern:

(1) the time and place of its meetings;

(2) the manner of conducting its meetings;

(3) the powers, duties, and responsibilities of its officers and employees;

(4) the disbursement of funds by checks, drafts, and warrants;

(5) the appointment and authority of director committees;

(6) the keeping of records and accounts; and

(7) other matters that the board considers appropriate.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.027. OFFICE AND MEETING PLACE. (a) The board shall designate, establish, and maintain an office and meeting place within the authority. The board may also establish a meeting place outside the authority.

(b) If the board establishes a meeting place outside the authority or changes the location of a meeting place established outside the authority, it shall file with the county clerk a copy of the order establishing or relocating the meeting place and shall publish the location in a newspaper of general circulation in the county in which the authority is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.028. MEETINGS; NOTICE. (a) The board shall hold regular meetings to conduct authority business and may hold special meetings as required by authority business.

(b) The board shall hold its meetings in one of its designated meeting places.

(c) Any interested person may attend any meeting of the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.029. FEES OF OFFICE. A director is entitled to

receive fees of office of not more than $25 a day for each day of service necessary to the discharge of the director's duties, but may not receive more than $100 for any calendar month regardless of the number of days of service during that month.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 281.041. ORGANIZATIONAL EXPENSES. The board may pay costs necessarily incurred in the creation and organization of the authority, including the cost of investigating and making plans, an engineer's or architect's report, and other incidental expenses, and may reimburse any person for money advanced for those purposes. The payments may be made from money obtained from the sale of the first bonds issued by the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.042. MANAGEMENT. The board shall control and manage the affairs of the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.043. EMPLOYEES. (a) The board shall employ persons the board considers necessary to conduct the affairs of the authority, including engineers, attorneys, financial advisors, a general manager, bookkeepers, auditors, and secretaries. The board shall determine the term of office and compensation of the employees.

(b) A director may be employed as the general manager of the authority and is entitled to receive compensation in an amount fixed by the other directors. A director employed as general manager shall continue to perform the duties of director. If the general manager is not a director, the general manager shall execute a fidelity bond payable to the authority in the amount of $5,000, conditioned that the person will faithfully perform the duties of general manager.

(c) The board may remove an employee.

(d) The board may require an employee to execute a bond payable to the authority that is conditioned that the person will faithfully

perform the duties of the employee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.044. FACILITIES. (a) An authority may establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain all or a designated part of:

(1) a public improvement such as a civic center, civic center building, auditorium, opera house, music hall, exhibition hall, coliseum, museum, library, recreational building or facility, or other public building or related facility; or

(2) a structure, parking area, or facility located at or in the immediate vicinity of the public improvement and to be used in connection with the public improvement for off-street parking or storage of motor vehicles or other conveyances.

(b) A lease made under Subsection (a) may contain any terms the board considers appropriate.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.045. DURATION OF CERTAIN LEASES. If an authority leases to or from any person all or part of any facilities constructed or acquired, or to be constructed or acquired, by the authority, the lease may not be for a term longer than 40 years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.046. CONTRACTS. (a) An authority contracts in the name of the authority.

(b) An authority may contract with the United States, this state, or a political subdivision or governmental agency of the United States or this state, for furnishing all or a part of the authority's services or facilities or for the joint ownership and operation of facilities, improvements, or equipment necessary to accomplish a purpose permitted by the authority.

(c) An authority may contract with any person in the performance of a purpose permitted by the authority. The contract

must be on terms the board considers desirable, fair, and advantageous and may not be for a term longer than 40 years.

(d) A director with a financial interest in a contract shall disclose the interest to the other directors and may not vote on the acceptance of the contract or participate in discussion on the contract. If a director fails to disclose his interest in a contract, the contract is invalid.

(e) If, after a contract is awarded, an authority decides that additional work is needed or that the character or type of work or facilities should be changed, the board may authorize change orders to the contract if the increase in the total cost of the contract is not greater than 25 percent.

(f) The board may grant authority to an official or employee responsible for purchasing or for administering a contract to approve a change order that involves an increase or decrease of $50,000 or less.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 479 (H.B. 679), Sec. 3, eff. June 17, 2011.

Sec. 281.047. CONTRACTS OVER $50,000. (a) This section applies to a contract that is for materials for, or construction of, facilities and that is for an amount greater than $50,000.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of the opening of the sealed bids. The board shall publish the notice once a week for two consecutive weeks in one or more newspapers published in the county. The first publication must be before the 14th day before the date the sealed bids are opened.

(c) A contract under this section may cover all facilities of the authority, or the various elements of the facilities may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the facilities will be constructed in stages over a period of years.

(d) A contract may provide for payment of a total sum that is the completed cost of the facilities or may be based on bids to cover the cost of units of the various elements entering into the work as

estimated by the authority's architects or engineers, or a contract may be let and awarded in any other form and to any responsible person that, in the board's judgment, will be most advantageous to the authority and result in the best and most economical completion of the authority's proposed facilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 10, eff. June 19, 2009.
Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 11, eff. June 19, 2009.

Sec. 281.048. CONSTRUCTION BIDS; CONTRACTS; BONDS. (a) To bid on proposed construction work, a person must submit to the board a written sealed bid and a certified or cashier's check drawn on a responsible bank in the state or a bidder's bond for at least two percent of the total amount of the bid.

(b) The board shall open all the bids at the same time. The board may reject any or all bids.

(c) If the chosen bidder fails or refuses to enter into a proper contract with the authority or to furnish the bond required by Subsection (e), the bidder forfeits the amount of the check or bond that accompanied the bid.

(d) A contract for construction work must be in writing and signed by the board and the contractor. The authority shall keep the contract in its records and make the contract available for public inspection.

(e) A person to whom a contract is let must execute good and sufficient performance and payment bonds in accordance with Chapter 2253, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(17), eff. Sept. 1, 1995.

Sec. 281.049. FEES; RULES. (a) An authority may adopt and enforce necessary charges, fees, or rentals for providing facilities or services.

(b) An authority may adopt and enforce reasonable rules

relating to its facilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.050. ACQUISITION OF LAND AND OTHER PROPERTY. (a) An authority may acquire land, materials, easements, rights-of-way, or other property considered necessary, incidental, or helpful to the accomplishment of a purpose stated in Section 281.044, including property considered necessary for the construction, improvement, extension, enlargement, operation, or maintenance of the authority's facilities. An authority may acquire the property by gift, grant, purchase, or condemnation.

(b) An authority may acquire fee simple title to, or an easement on, public or private land located in or out of the authority's boundaries. An authority may acquire title to, or an easement on, property that is not held in fee.

(c) An authority may lease property on terms the board considers advantageous to the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.051. EMINENT DOMAIN. (a) An authority may acquire land, easements, or other property within its boundaries by condemnation. The authority may condemn the fee simple title or an easement. The board shall institute condemnation proceedings in the name of the authority and shall direct the proceedings.

(b) The manner in which an authority exercises the right of eminent domain is governed by Chapter 21, Property Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.052. SUITS. An authority may, through its directors, sue and be sued in any court of this state in the name of the authority. Service of process may be made by serving three directors. Courts of this state shall take judicial notice of the establishment of an authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.053. COSTS, DEPOSITS, AND APPEAL BONDS. An authority is not required to give bond for appeal or for costs, or to deposit double the amount of an award, in a condemnation suit or other suit to which it is a party.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.054. COSTS OF RELOCATION. If the relocating, raising, rerouting, changing the grade, or altering the construction of a highway, railroad, electric transmission line, pipeline, or telephone or telegraph property is required by the authority's exercise of the power of eminent domain, power of relocation, or any other power, the required action shall be taken at the sole expense of the authority. "Sole expense" means the actual costs of the required action and of the provision of a comparable replacement that does not enhance the facility after deducting the net salvage value derived from the old facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.055. SURPLUS PROPERTY. (a) The board may order the sale of land or other property owned by the authority that the authority does not need. The sale may be public or private.

(b) Property owned by the authority that the authority does not need may be exchanged for other property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.056. ADDITION OF MUNICIPALITIES. (a) To add a municipality to the authority, a petition signed by a majority of the members of the governing body of the municipality must be filed with the board.

(b) If the board determines that the addition of the municipality to the authority is desirable or necessary, the board shall enter an order adding the municipality to the authority and shall file a copy of the order in the county deed records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.057. RECORDS. The preservation, microfilming, destruction, or other disposition of the records of the authority is subject to the requirements of Subtitle C, Title 6, Local Government Code, and rules adopted under that subtitle.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 59, eff. Sept. 1, 1989.

Sec. 281.058. SURETY BOND PREMIUMS. The board may pay the premiums on surety bonds required of officials or employees of the authority out of available funds of the authority, including proceeds from the sale of bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.059. DEPOSITORY. The board shall designate by order or resolution one or more banks in or out of the authority's boundaries to serve as the depository for the authority's funds. All funds of the authority shall be deposited in its depository unless an order or resolution authorizing the issuance of the authority's bonds requires a different disposition. To the extent that funds in a depository bank are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided for the security of county funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.060. INVESTMENTS. The board may invest and reinvest authority funds in direct or indirect obligations of the United States, an agency of the United States, the State of Texas, or a county, municipality, school district, or other political subdivision of the state. Funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations in the state if the certificates of deposit are secured in the manner provided for the security of county funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.061. FISCAL YEAR; AUDIT. (a) The fiscal year of an authority is a calendar year, unless it is changed by the board.

(b) An authority shall keep a complete system of accounts. An independent certified public accountant or a firm of independent certified public accountants shall prepare an audit of an authority's affairs each year. A signed copy of the audit report shall be delivered to each member of the board within 120 days after the last day of the fiscal year. A copy of the audit shall be kept on file at the authority office and, as a public record, is open for inspection by any interested person during normal office hours.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.062. SUPPLIES; SEAL. (a) The board may purchase materials, supplies, equipment, vehicles, and machinery needed by the authority.

(b) The board shall adopt a seal for the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. REVENUE BONDS

Sec. 281.071. ISSUANCE OF BONDS. (a) An authority may issue revenue bonds for any purpose set forth in Subchapters A through E when the issuance is authorized by a resolution adopted by the board. The bonds must be secured by a pledge of, and be payable from, all or a designated part of the authority's revenues from its facilities or any other source, including contract and lease proceeds.

(b) The bonds may mature serially or in any other manner. The bonds may not mature later than 40 years after the date of the bonds.

(c) The bonds shall bear interest at a rate that does not exceed the maximum interest rate authorized by Chapter 1204, Government Code.

(d) The bonds and the appurtenant interest coupons, if any, are investment securities under Chapter 8, Business & Commerce Code.

(e) As provided by the board, the bonds and interest coupons:

(1) may be issued registrable as to principal or as to both

principal and interest; and

(2) may be made redeemable before maturity, at the option of the board, or may contain a mandatory redemption provision.

(f) In the resolution authorizing the issuance of the bonds, the board shall designate the form and denominations of the bonds; the manner, terms, conditions, and details of issuance; and the manner of signing and executing the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.301, eff. Sept. 1, 2001.

Sec. 281.072. ADDITIONAL SECURITY. (a) At the board's discretion, the bonds of an authority may be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the authority, and franchises, easements, leases, and contracts and rights relating to those properties. The trustee may operate the properties, sell the properties for payment of the bonds or interest on the bonds, and exercise all other powers and authority for the further security of the bonds.

(b) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may:

(1) contain provisions prescribed by the board for the security of the bonds and as preservation of the trust estate and for the modification or amendment of those provisions;

(2) condition the right to spend authority money or sell authority property on the approval of a registered professional engineer or architect and provide for the manner of selecting the engineer or architect; and

(3) provide for the investment of funds of the authority.

(c) A purchaser under a sale under a deed of trust or mortgage lien is the absolute owner of the properties, facilities, and rights purchased and may maintain and operate the properties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.073. BOND PROVISIONS. (a) In a resolution authorizing the issuance of bonds under this chapter, including refunding bonds, the board may:

(1) provide for the flow of funds and the establishment and

maintenance of interest and sinking funds, reserve funds, and other funds;

(2) make additional covenants that the board considers appropriate with respect to the bonds, the pledged revenues, and the operation and maintenance of the facilities of which the revenues are pledged, including provisions for the operation or leasing of the facilities and the use or pledge of money derived from the operation of the facilities, contracts, and leases;

(3) prohibit the further issuance of bonds or other obligations payable from the pledged revenues;

(4) reserve the right to issue, on conditions set forth in the resolution, additional bonds to be secured by a pledge of, and payable from, the revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued; and

(5) state other provisions and covenants that are not prohibited by the constitution of this state or by this chapter.

(b) The board may adopt and provide for any other proceeding or instrument necessary or convenient in the issuance of authority bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.074. SALE OF BONDS. After bonds are issued, the board shall sell the bonds on the best terms and for the best possible price.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.075. APPROVAL; REGISTRATION. (a) An authority shall submit the bonds it issues to the attorney general for examination. If the attorney general finds that the bonds are authorized in accordance with law, the attorney general shall approve the bonds and the comptroller of public accounts shall register them.

(b) Bonds that are approved and registered under Subsection (a) are incontestable in a court or other forum and are valid and binding obligations in accordance with their terms.

(c) If the bonds recite that the security for the bonds includes a pledge of the proceeds of a contract or a lease to which the authority is a party, a copy of the contract or lease and of the

proceedings authorizing the contract or lease may be submitted to the attorney general with the bond records. If a contract or lease and a record of the corresponding proceedings is submitted to the attorney general, the approval of the bonds by the attorney general is also an approval of the contract or lease and the contract or lease is incontestable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.076. BOND PROCEEDS. The board may appropriate or set aside from the proceeds from the sale of bonds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction as provided in the bond resolutions, and expenses incurred and that will be incurred in the issuance, sale, and delivery of the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.077. REFUND OF BONDS. (a) By resolutions adopted by the board, an authority may issue bonds to refund all or any outstanding bonds, including matured but unpaid interest coupons. Refunding bonds may mature serially or in any other manner. The bonds may not mature later than 40 years after the date of the bonds. The bonds shall bear interest at a rate that does not exceed the maximum interest rate authorized by Chapter 1204, Government Code.

(b) Refunding bonds may be sold in accordance with Subsection (c) or they may be made payable from the same source as the bonds being refunded or from any additional source. The bonds must be approved by the attorney general in the same manner as original bonds and must be registered by the comptroller of public accounts on the surrender and cancellation of the bonds to be refunded.

(c) The resolution authorizing the issuance of refunding bonds may provide that the bonds be sold and the proceeds deposited where the underlying bonds are payable. If the amount deposited is sufficient to pay the interest and principal on the underlying bonds to their maturity dates, or to their option dates if the bonds have been called for payment before maturity, the authority may issue the refunding bonds before the cancellation of the bonds being refunded, and the comptroller of public accounts shall register the bonds

without the surrender and cancellation of the underlying bonds.

(d) Refunding may be accomplished in one or more installment deliveries. Refunding bonds and the appurtenant interest coupons are investment securities under Chapter 8, Business & Commerce Code, and must be issued as provided in this chapter.

(e) In lieu of the method set forth in this section, an authority may refund bonds as provided by general law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.302, eff. Sept. 1, 2001.

Sec. 281.078. BONDS AS INVESTMENTS; SECURITY. (a) Bonds issued by an authority are legal and authorized investments for a bank, a trust company, a savings and loan association, an insurance company, a fiduciary, or a trustee and for interest or sinking funds or other public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic.

(b) Bonds issued by an authority may be security for deposits of public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic, to the extent of the market value of the bonds and appurtenant unmatured interest coupons.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.079. PAID BONDS AND COUPONS. When a bond, interest coupon, note, or warrant of the authority is paid, it shall be delivered to the authority or destroyed. If a bond, coupon, note, or warrant is destroyed, evidence of the destruction shall be furnished to the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER F. CONTRACTS WITH CIVIC CENTER AUTHORITIES

Sec. 281.091. AUTHORIZATION; PURPOSES. On terms a municipality considers desirable, fair, and advantageous and with the

approval of a majority of the governing body, a municipality may make a contract with a civic center authority under which the authority, for the benefit of the municipality, exercises its authority under Section 281.044. Under the contract, the authority may provide to the municipality all or part of its authorized services and facilities, in or out of the municipality's boundaries. The term of the contract may not be longer than 40 years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 281.092. PAYMENTS. (a) A municipality shall pay the amounts prescribed by the contract from any available funds, including property taxes.

(b) To pledge property taxes as part or all of the required payments under the contract, before it enters into a contract with an authority a municipality must obtain voter approval at an election conducted substantially according to the applicable procedures in Chapter 1251, Government Code. Each qualified voter in the municipality is entitled to vote in the election. If the voters authorize the payments from property taxes, the contract may provide that the payments are payable from and are obligations against only the taxing power of the municipality or may provide that the payments are payable from taxes and other funds and revenues specified in the contract. After the election and concurrently with, or prior to, making the contract, the municipality shall provide for the annual assessment and collection of an amount that is sufficient to make the contract payments and to create a sinking fund of at least two percent.

(c) An authority or a holder of authority bonds may not demand payment of the municipality's obligation out of funds raised by taxation if the municipality has not complied with Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.303, eff. Sept. 1, 2001.

Sec. 281.093. CONFLICT WITH MUNICIPAL CHARTER. If this subchapter conflicts with the charter of a home-rule municipality contracting under this subchapter, this subchapter controls.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 282. MUNICIPAL AUTHORITY OVER PUBLIC GROUNDS

Sec. 282.001. GENERAL AUTHORITY OF HOME-RULE MUNICIPALITY. (a) A home-rule municipality has exclusive control over and under the public grounds of the municipality.

(b) The municipality may control, regulate, or remove an encroachment or obstruction on the public grounds of the municipality.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 11, eff. Sept. 1, 1995.

Sec. 282.002. GENERAL AUTHORITY OF GENERAL-LAW MUNICIPALITY. (a) A general-law municipality has exclusive control over the public grounds of the municipality.

(b) The municipality may abate or remove an encroachment or obstruction on the public grounds of the municipality.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 11, eff. Sept. 1, 1995.

Sec. 282.003. AUTHORITY OF HOME-RULE MUNICIPALITY TO GRANT FRANCHISE. (a) The governing body of a home-rule municipality by ordinance may grant to a person a franchise to use or occupy the public grounds of the municipality.

(b) The authority to grant a franchise to use or occupy the public grounds is the exclusive authority of the governing body, and the charter of the municipality may not grant the franchise.

(c) A franchise under this section:

(1) is subject to the same petition and election provisions that apply to a franchise under Subchapter D, Chapter 311, Transportation Code; and

(2) may not extend beyond the period set for its termination.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 11, eff. Sept. 1, 1995.

CHAPTER 283. MANAGEMENT OF PUBLIC RIGHT-OF-WAY USED BY

TELECOMMUNICATIONS PROVIDER IN MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 283.001. STATE POLICY; PURPOSE. (a) It is the policy of this state to:

(1) encourage competition in the provision of telecommunications services;

(2) reduce the barriers to entry for providers of services so that the number and types of services offered by providers continue to increase through competition;

(3) ensure that providers of telecommunications services do not obtain a competitive advantage or disadvantage in their ability to obtain use of a public right-of-way within a municipality; and

(4) fairly reduce the uncertainty and litigation concerning franchise fees.

(b) It is also the policy of this state that municipalities:

(1) retain the authority to manage a public right-of-way within the municipality to ensure the health, safety, and welfare of the public; and

(2) receive from certificated telecommunications providers fair and reasonable compensation for the use of a public right-of-way within the municipality.

(c) The purpose of this chapter is to establish a uniform method for compensating municipalities for the use of a public right-of-way by certificated telecommunications providers that:

(1) is administratively simple for municipalities and telecommunications providers;

(2) is consistent with state and federal law;

(3) is competitively neutral;

(4) is nondiscriminatory;

(5) is consistent with the burdens on municipalities created by the incursion of certificated telecommunications providers into a public right-of-way; and

(6) provides fair and reasonable compensation for the use of a public right-of-way.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.002. DEFINITIONS. In this chapter:

(1) "Access line":

(A) means, unless the commission adopts a different definition under Section 283.003, a unit of measurement representing:

(i) each switched transmission path of the transmission media that is physically within a public right-of-way extended to the end-use customer's premises within the municipality, that allows the delivery of local exchange telephone services within a municipality, and that is provided by means of owned facilities, unbundled network elements or leased facilities, or resale;

(ii) each termination point or points of a nonswitched telephone or other circuit consisting of transmission media located within a public right-of-way connecting specific locations identified by, and provided to, the end-use customer for delivery of nonswitched telecommunications services within the municipality; or

(iii) each switched transmission path within a public right-of-way used to provide central office-based PBX-type services for systems of any number of stations within the municipality, and in that instance, one path shall be counted for every 10 stations served; and

(B) may not be construed to include interoffice transport or other transmission media that do not terminate at an end-use customer's premises or to permit duplicate or multiple assessment of access line rates on the provision of a single service.

(2) "Certificated telecommunications provider" means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the commission to offer local exchange telephone service or a person who provides voice service.

(3) "Commission" means the Public Utility Commission of Texas.

(4) "Consumer price index" means the annual revised consumer price index for all urban consumers for Texas, as published by the Federal Bureau of Labor Statistics.

(5) "Local exchange telephone service" has the meaning assigned by Section 51.002, Utilities Code.

(6) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications.

(7) "Voice service" means voice communications services provided through wireline facilities located at least in part in the public right-of-way, without regard to the delivery technology, including Internet protocol technology. The term does not include voice service provided by a commercial mobile service provider as defined by 47 U.S.C. Section 332(d).

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 28, eff. September 7, 2005.

Sec. 283.003. COMMISSION REVIEW. (a) Not later than September 1, 2002, the commission shall determine whether changes in technology, facilities, or competitive or market conditions justify a modification in the commission-established categories of access lines or, if necessary, the adoption of a definition of "access line" provided by this section. The commission may not begin a review authorized by this section before March 1, 2002.

(b) As part of the proceeding described by Subsection (a), and as necessary after that proceeding, the commission by rule may modify the definition of "access line" and the categories of access lines as necessary to ensure competitive neutrality and nondiscriminatory application and to maintain consistent levels of compensation, as annually increased by growth in access lines and consumer price index, as applicable, to the municipalities.

(c) After September 1, 2002, the commission, on its own motion, shall make the determination required by this section at least once every three years.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.004. APPLICATION. This chapter applies only to municipal regulations and fees imposed on and collected from certificated telecommunications providers.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.005. INFORMATION. (a) The commission may collect and compile any information from certificated telecommunications providers and municipalities as is necessary to implement this chapter.

(b) The commission shall maintain the confidentiality of the information described by Subsection (a) in accordance with Section 52.207, Utilities Code.

(c) Information provided to municipalities under this chapter shall be governed by confidentiality procedures established by the commission in compliance with Section 52.207, Utilities Code.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.006. FEE REQUIREMENT FOR USE OF RIGHT-OF-WAY. (a) Notwithstanding any other law, a certificated telecommunications provider that does not use a public right-of-way within the municipality may not be required to pay franchise fees, right-of-way fees or any other fee or other compensation, other than a fee or compensation excluded from the "base amount" under Section 283.053(a), directly to the municipality to provide local exchange telephone service in the municipality.

(b) This section does not affect the number of access lines counted and reported to the commission under Section 283.055.

(c) The commission shall adopt rules to determine the method of payment and to ensure that access line fees are paid on a competitively neutral and non-discriminatory basis by certificated telecommunications providers that provide more access lines than they purchase from an underlying provider of resold services or unbundled network elements.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. RIGHT-OF-WAY FEES

Sec. 283.051. RIGHT-OF-WAY FEE. (a) Notwithstanding any other law, a certificated telecommunications provider that provides telecommunications services within a municipality is required to pay as compensation to a municipality for use of the public rights-of-way in the municipality only the amount determined by the commission under Section 283.055.

(b) This section does not affect the right of a municipality to initiate legal action against a certificated telecommunications provider that uses a public right-of-way to provide local exchange telephone service within a municipality and has not compensated the municipality in accordance with this chapter.

(c) Fees imposed under this chapter shall constitute "a municipal fee" or "municipal fees" within the meaning of the Utilities Code.

(d) In this subsection, "affiliated group" has the meaning assigned by Section 171.0001, Tax Code. A certificated telecommunications provider is not required to pay any compensation under Subsection (a) for a given calendar year if the provider determines that the sum of the compensation due from the provider and any member of the provider's affiliated group to all municipalities in this state under Subsection (a) is less than the sum of the fees due from the provider and any member of the provider's affiliated group to all municipalities in this state under Section 66.005, Utilities Code. The determination under this subsection for a given year must be based on amounts actually paid, or amounts that would have been paid notwithstanding this subsection, during the 12-month period ending June 30 of the immediately preceding calendar year by the provider and any member of the provider's affiliated group. In the case of a conflict between this subsection and Section 283.055, this subsection prevails.

(e) Notwithstanding the aggregate amount of compensation or fees paid in this state calculated under Subsection (d), Subsection (d) does not exempt a certificated telecommunications provider from paying compensation under Subsection (a) to a municipality if the provider is not required to pay a fee authorized by Section 66.005, Utilities Code, or another fee described in 47 U.S.C. Section 542(g), to that municipality. This subsection applies only to a municipality described in this subsection and does not limit the application of Subsection (d) to any other municipality.

(f) A certificated telecommunications provider shall file, not later than October 1 of each year, an annual written notification with each municipality in which the provider provides telecommunications services of the provider's requirement to pay compensation under Subsection (a) or exemption from the requirement to pay compensation under Subsection (d) for the following calendar year.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 980 (S.B. 1152), Sec. 1, eff. September 1, 2019.

Sec. 283.052. EFFECT OF PAYMENT OF RIGHT-OF-WAY FEES TO MUNICIPALITY. (a) Subject to the requirements of Sections 283.056 and 283.057, a certificated telecommunications provider that complies with this chapter and commission orders issued under this chapter:

(1) may erect poles or construct conduit, cable, switches, and related appurtenances and facilities and excavate within a public right-of-way to provide telecommunications service; and

(2) is not subject to municipal franchise requirements.

(b) All use of a public right-of-way is nonexclusive and subject to Section 283.056.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.053. BASE AMOUNT. (a) In determining a municipality's "base amount" under this section, pole rental fees, special assessments, and taxes of any kind, including ad valorem or sales and use taxes, or other compensation not related to the use of a public right-of-way, are not included.

(b) For purposes of determining the amount of a municipality's right-of-way fee under Section 283.055, the "base amount" for a municipality not described by another subsection is the total amount of revenue received by the municipality in franchise, license, permit, and application fees and in-kind services or facilities from certificated telecommunications providers in 1998 within the boundaries of the municipality, including all newly annexed areas. The base amount prescribed under this subsection shall include the municipal fee rate escalation provisions and the value of in-kind services or facilities received in 1998 in accordance with Subsection (f) specifically prescribed in applicable agreements or ordinances effective or adopted by January 12, 1999, unless the governing body of the municipality elects otherwise. However, that additional compensation may not become part of the base amount before it becomes effective under the existing franchise agreement or ordinance.

(c) The base amount for a municipality located in a county with a population of less than 25,000 or a municipality that either did not have an effective franchise agreement or ordinance on January 12, 1999, or was not in existence on that date shall be, at the election of the governing body of the municipality, equal to:

(1) an amount not greater than the statewide average fee per line for each category of access line of the certificated telecommunications provider with the greatest number of access lines in that municipality, multiplied by the total number of access lines in each category located within the boundaries of the municipality on December 31, 1998, for a municipality in existence on that date, or on the date of incorporation for a municipality incorporated after that date;

(2) an amount not greater than the base amount determined for a similarly sized municipality in the same or an adjacent county in which the certificated telecommunications provider with the greatest number of access lines in the municipality is the same for each municipality; or

(3) the total amount of revenue received by the municipality in franchise, license, permit, and application fees from all certificated telecommunications providers in 1998.

(d) The base amount for a municipality that was involved in litigation relating to franchise fees with one or more certificated telecommunications providers during any part of 1998 and that, not later than December 1, 1999, repeals any ordinance subject to dispute in the litigation, voluntarily dismisses with prejudice any claims in the litigation for compensation, and agrees to waive any potential claim for compensation under any franchise agreement or ordinance expired or in existence on September 1, 1999, is equal to, at the municipality's election:

(1) an amount not to exceed the state average access line rate on a per category basis for the certificated telecommunications provider with the greatest number of access lines in that municipality multiplied by the total number of access lines located within the boundaries of the municipality on December 31, 1998, including any newly annexed areas; or

(2) an amount not to exceed 21 percent of the total sales and use tax revenue received by the municipality pursuant to Chapter 321, Tax Code. The amount does not include sales and use taxes collected under:

(A) Chapter 451, 452, 453, or 454, Transportation Code, for a mass transit authority;

(B) Chapter 504 or 505;

(C) Chapters 334 and 335, Local Government Code; or

(D) Chapters 321, 322, and 323, Tax Code, for a special district, including health service, crime control, hospital, and emergency service districts.

(e) A litigating municipality electing to dismiss with prejudice its claims in the litigation and repealing any ordinance subject to dispute in the litigation does not, by making the election, waive any defenses it may have to claims by other parties to the litigation. A municipality in litigation relating to franchise fees with one or more certificated telecommunications providers during any part of 1998 that does not make an effective election under Subsection (d) shall be governed by Subsection (b).

(f) For the purpose of determining the base amount, in-kind services or facilities provided to municipalities under existing franchise agreements or ordinances by certificated telecommunications providers shall be valued at one percent of the total 1998 revenue from franchise, permit, license, and application fees paid to the municipality under all applicable telecommunications franchise agreements or ordinances, unless a municipality can establish before the commission that those services or facilities received by the municipality had a greater value in 1998.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.18, eff. April 1, 2009.

Sec. 283.054. EXISTING FRANCHISE AGREEMENTS AND ORDINANCES. (a) Except as otherwise provided by this chapter, this chapter does not affect the validity of a franchise agreement or ordinance with a certificated telecommunications provider executed before January 12, 1999. A municipality may continue to enforce a franchise agreement or ordinance and to collect franchise fees and other charges under that franchise agreement or ordinance until the date on which the agreement or ordinance expires by its own terms or is terminated in accordance with the terms of this section. A provider may elect to

terminate a franchise agreement or obligations under an existing ordinance as of the effective date of the right-of-way fee rates adopted in accordance with the commission's rules adopted under this chapter. A provider terminating a franchise agreement or obligations under an existing ordinance under this section shall become governed by this chapter on the date of termination. A termination under this subsection does not affect the calculation of the municipality's base amount under Section 283.053. A certificated telecommunications provider electing to terminate an existing franchise agreement or obligations under an ordinance under this section shall provide notice to the commission and the affected municipality not later than December 1, 1999.

(b) If a franchise agreement or obligations under an ordinance in a municipality expire or are terminated under Subsection (a) before the commission has determined the amounts to be paid to a municipality, the affected certificated telecommunications providers operating in the municipality shall continue paying at the rates required under the terms of the expired agreement or ordinance until the commission's determination and the certificated telecommunications provider's implementation of appropriate rates under this chapter.

(c) During the period in which a franchise agreement or ordinance described by Subsection (a) is in effect, a certificated telecommunications provider not subject to an existing franchise agreement or ordinance that wants to construct facilities to offer telecommunications services in the municipality shall pay right-of-way fees that are competitively neutral and non-discriminatory, consistent with the charges of the most recent agreement or ordinance between the municipality and the certificated telecommunications provider serving the largest number of access lines within the municipality. The provider shall pay those fees for the duration of that agreement or ordinance or until the right-of-way fees established by commission rule take effect. If the existing franchise agreement or ordinance contains a provision requiring in-kind services or facilities, the certificated telecommunications provider not subject to an existing franchise agreement or ordinance shall pay an amount equal to an additional one percent of its total fees under the applicable agreement or ordinance in lieu of any in-kind services or facilities, if any, that otherwise are required under the terms of the existing franchise agreement or ordinance.

However, the municipality may not require a certificated telecommunications provider to provide any services or facilities without compensation or at below-market rates for the right to use a public right-of-way or to provide telecommunications services in the municipality. On request of the certificated telecommunications provider not subject to an existing franchise agreement or ordinance, the commission shall convert the compensation under the existing franchise agreement or ordinance to a fee per access line on a competitively neutral and non-discriminatory basis, and the certificated telecommunications provider may elect to pay the municipality on a fee per access line basis rather than the manner of compensation provided under the existing franchise agreement or ordinance.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.055. DETERMINATION OF FEES BY COMMISSION. (a) Not later than November 1, 1999, the commission shall establish not more than three categories of access lines for statewide use.

(b) Not later than March 1, 2000, the commission shall establish:

(1) for each municipality, rates per access line by category for the use of the rights-of-way in that municipality; and

(2) the statewide average of those rates per access line by category for each certificated telecommunications provider, if necessary.

(c) The rates when applied to the total number of access lines by category in the municipality shall be equal to the base amount.

(d) Not later than December 1, 1999, a municipality that wants to effect an allocation of the base amount over specific access line categories to be assessed rates shall notify the commission of the desired allocation. The commission shall establish an allocation of the base amount over the categories of access lines if a municipality does not file its proposed allocation by December 1, 1999. A municipality may request a modification of the commission's allocation not more than once every 24 months by notifying the commission and all affected certificated telecommunications providers in September of that year that the municipality wants to change the allocation for the next calendar year. A municipality's allocation

shall be implemented unless, on complaint by an affected certificated telecommunications provider, the commission determines that the allocation is not just and reasonable, is not competitively neutral, or is discriminatory.

(e) Rates imposed under this section and the allocation among certificated telecommunications providers must be exercised in a competitively neutral manner, may not unduly impair competition, must be non-discriminatory, and must comply with state and federal law. The commission shall determine the applicable rates for each municipality for each category, taking into account the allocation under Subsection (d) and the type, use, and function of access lines.

(f) Certificated telecommunications providers shall pay to the municipality a quarterly amount calculated monthly based on the access line rates established by the commission under this section and the number of access lines as reflected in the reports filed under Subsection (j). The providers shall make the quarterly payment not later than 45 days after the end of the quarter.

(g) Beginning 24 months after the date the commission establishes rates per access line, the commission shall annually adjust the rates per access line for each municipality by an amount equal to one-half the annual change, if any, in the consumer price index. At that time, the commission shall provide each certificated telecommunications provider and municipality with the adjusted monthly rates for each category of access line.

(h) On an annual basis, an affected municipality may provide notice to the commission to decline all or any portion of any increase in the per category access line rates.

(i) A certificated telecommunications provider may not be required to remit a right-of-way fee to a municipality on those access lines that have been resold, leased, or otherwise provided to another certificated telecommunications provider, if the underlying certificated telecommunications provider supplying those services or facilities has been furnished with adequate proof that the provider of services to the end-use customer will directly remit to the municipality a right-of-way fee based on those access lines.

(j) On a quarterly basis, each certificated telecommunications provider shall file a report with the commission that shows the number of access lines, including access lines by category, that the provider has within each municipality at the end of each month of the quarter. The provider shall include with the report a certified

statement from an authorized officer or duly authorized representative of the provider stating that the information contained in the report is true and correct to the best of the officer's or representative's knowledge and belief after inquiry. On request and subject to the confidentiality protections of Section 283.005, each certificated telecommunications provider shall provide each affected municipality with a copy of the report required by this subsection.

(k) On request of the commission and to the extent available, the report required by Subsection (j) shall specifically identify access lines that are provided by means of resold services or unbundled facilities to another certificated telecommunications provider who is not an end-use customer and the identity of the certificated telecommunications providers obtaining the resold services or unbundled facilities to provide services to end-use customers. A provider may not include in its monthly count of access lines and is not required to remit a right-of-way fee to the municipality on access lines that are resold, leased, or otherwise provided to another certificated telecommunications provider if the provider receives adequate proof that the provider leasing or purchasing the access lines will include the access lines in its monthly count and remit payment on those access lines to the municipality.

(l) The commission may use a report required under Subsection (j) only to verify the number of access lines that serve premises within the municipality.

(m) Notwithstanding any other provision of this chapter, payment by a certificated telecommunications provider that complies with the terms of an unexpired franchise agreement or right-of-way ordinance that applies to the provider satisfies the payment attributable to the provider required by this chapter.

(n) A municipality may not demand or require from a certificated telecommunications provider services, facilities, or goods without compensation or at below-market rates.

(o) A certificated telecommunications provider shall, to the extent required, implement commission established access line rates not later than the 90th day after the date the commission establishes the access line rates under this chapter.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.056. MUNICIPAL AUTHORIZATIONS; PROHIBITION ON OTHER FEES AND CHARGES. (a) A municipality may not require a certificated telecommunications provider to:

(1) pay any compensation other than the fee authorized by Section 283.055, including an application, permit, excavation, or inspection fee, for the right to use a public right-of-way to provide telecommunications services in the municipality; or

(2) provide any services or facilities for the right to use a public right-of-way or to provide telecommunications services in the municipality.

(b) Notwithstanding any other law or any other provision of this chapter, a municipality may require the issuance of a construction permit without cost to a certificated telecommunications provider locating facilities in or on public rights-of-way within the municipality. The terms of the permit shall be consistent with construction permits issued to other persons excavating in a public right-of-way.

(c) A municipality may exercise those police power-based regulations in the management of a public right-of-way that apply to all persons within the municipality. A municipality may exercise police power-based regulations in the management of the activities of certificated telecommunications providers within a public right-of-way only to the extent that they are reasonably necessary to protect the health, safety, and welfare of the public. Police power-based regulation of certificated telecommunications providers may not include activities that are governed by this chapter or are within the sole business discretion of the certificated telecommunications provider. In addition, any police power-based regulation must be competitively neutral and may not be unreasonable or discriminatory. A municipality specifically may not impose regulations on certificated telecommunications providers that are not authorized by this chapter, including:

(1) requirements that particular business offices be located in the municipality;

(2) requirements for filing reports and documents with the municipality that are not required by state law to be filed with the municipality and that are not related to the use of a public right-of-way;

(3) inspection of a provider's business records except to the extent necessary to conduct an authorized review of the provider

to ensure compliance with the access line reporting requirements of this chapter if commenced within 90 days after the filing of a certificated telecommunications provider's report of access lines; and

(4) approval of transfers of ownership or control of a provider's business, except that a municipality may require that a provider maintain current point of contact information and provide notice of a transfer within a reasonable time.

(d) In the exercise of its lawful regulatory authority, a municipality shall promptly process each valid and administratively complete application of a certificated telecommunications provider for any permit, license, or consent to excavate, set poles, locate lines, construct facilities, make repairs, affect traffic flow, obtain zoning or subdivision regulation approvals, or for other similar approvals, and shall make every reasonable effort to not delay or unduly burden that provider in the timely conduct of its business.

(e) If there is an emergency necessitating response work or repair, a certificated telecommunications provider may begin that repair or emergency response work or take any action required under the circumstances, provided that the certificated telecommunications provider notifies the affected municipality as promptly as possible after beginning the work and later acquires any approval required by a municipal ordinance applicable to emergency response work.

(f) The compensation paid under this chapter is in lieu of any permit, license, approval, inspection, or other similar fee or charge, including all general business license fees customarily assessed by a municipality for the use of a public right-of-way against persons operating telecommunications-related businesses. The compensation paid under this chapter constitutes full compensation to a municipality for all of a certificated telecommunications provider's facilities located within a public right-of-way, including interoffice transport and other transmission media that do not terminate at an end-use customer's premises, even though those types of lines are not used in the calculation of the compensation. This chapter may not be construed to affect the ad valorem taxation of a certificated telecommunications provider's facilities or to permit the ad valorem taxation of a certificated telecommunication provider's occupancy of a public right-of-way.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.057. INDEMNITY. (a) Certificated telecommunications providers shall indemnify and hold the municipality and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought that is found by a court of competent jurisdiction to be caused solely by the negligent act, error, or omission of the certificated telecommunications provider, any agent, officer, director, representative, employee, affiliate, or subcontractor of the certificated telecommunications provider, or their respective officers, agents, employees, directors, or representatives, while installing, repairing, or maintaining facilities in a public right-of-way. The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the municipality, its officers, employees, contractors, or subcontractors. If a certificated telecommunications provider and the municipality are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the municipality under state law and without waiving any defenses of the parties under state law. This section is solely for the benefit of the municipality and certificated telecommunications provider and does not create or grant any rights, contractual or otherwise, to any other person or entity.

(b) A certificated telecommunications provider or municipality shall promptly advise the other in writing of any known claim or demand against the certificated telecommunications provider or the municipality related to or arising out of the certificated telecommunications provider's activities in a public right-of-way.

(c) Municipalities with franchise agreements or ordinances applicable to certificated telecommunications providers in effect under a general-use ordinance adopted before January 12, 1999, and after July 1, 1998, and having 1.3 million access lines or more within the municipality on September 1, 1999, may continue to enforce

the indemnity provision contained in those franchise agreements or ordinances until the earlier of the date the franchise agreements or ordinances expire or December 31, 2003. A certificated telecommunications provider providing access lines in a municipality described by this subsection is also subject to the indemnity provided by this section.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.058. ADDITIONAL COMMISSION JURISDICTION. The commission shall have the jurisdiction over municipalities and certificated telecommunications providers necessary to enforce this chapter and to ensure that all other legal requirements are enforced in a competitively neutral, non-discriminatory, and reasonable manner.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 284. DEPLOYMENT OF NETWORK NODES IN PUBLIC RIGHT-OF-WAY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 284.001. FINDINGS AND POLICY. (a) The legislature finds that:

(1) network nodes are instrumental to increasing access to advanced technology and information for the citizens of this state and thereby further an important public policy of having reliable wireless networks and services;

(2) this state has delegated to each municipality the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public, subject to state law;

(3) network nodes often may be deployed most effectively in the public right-of-way;

(4) network providers' access to the public right-of-way and the ability to attach network nodes to poles and structures in the public right-of-way allow network providers to densify their networks and provide next-generation services;

(5) expeditious processes and reasonable and nondiscriminatory terms, conditions, and compensation for use of the public right-of-way for network node deployments are essential to state-of-the-art wireless services and thereby further an important

public policy of having reliable wireless networks and services;

(6) network nodes help ensure that this state remains competitive in the global economy;

(7) the timely permitting of network nodes in the public right-of-way is a matter of statewide concern and interest;

(8) requirements of this chapter regarding fees, charges, rates, and public right-of-way management, when considered with fees charged to other public right-of-way users under this code, are fair and reasonable and in compliance with 47 U.S.C. Section 253;

(9) to the extent this state has delegated its fiduciary responsibility to municipalities as managers of a valuable public asset, the public right-of-way, this state is acting in its role as a landowner in balancing the needs of the public and the needs of the network providers by allowing access to the public right-of-way to place network nodes in the public right-of-way strictly within the terms of this chapter; and

(10) as to each municipality, including home-rule municipalities, this state has determined that it is reasonable and necessary to allow access to the public right-of-way for the purposes of deploying network nodes to protect and safeguard the health, safety, and welfare of the public as provided by this chapter.

(b) In order to safeguard the health, safety, and welfare of the public, it is the policy of this state to promote the adoption of and encourage competition in the provision of wireless services by reducing the barriers to entry for providers of services so that the number and types of services offered by providers continue to increase through competition.

(c) It is the policy of this state, subject to state law and strictly within the requirements and limitations prescribed by this chapter, that municipalities:

(1) retain the authority to manage the public right-of-way to ensure the health, safety, and welfare of the public; and

(2) receive from network providers fair and reasonable compensation for use of the public right-of-way and for collocation on poles.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.002. DEFINITIONS. In this chapter:

(1) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(2) "Applicable codes" means:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and

(B) local amendments to those codes to the extent not inconsistent with this chapter.

(3) "Collocate" and "collocation" mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

(4) "Decorative pole" means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

(5) "Design district" means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

(6) "Historic district" means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

(7) "Law" means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

(8) "Macro tower" means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Section 284.103 and that supports or is capable of supporting antennas.

(9) "Micro network node" means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

(10) "Municipally owned utility pole" means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.

(11) "Municipal park" means an area that is zoned or otherwise designated by municipal code as a public park for the

purpose of recreational activity.

(12) "Network node" means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:

(i) equipment associated with wireless communications;

(ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and

(iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:

(i) an electric generator;

(ii) a pole; or

(iii) a macro tower.

(13) "Network provider" means:

(A) a wireless service provider; or

(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:

(i) network nodes; or

(ii) node support poles or any other structure that supports or is capable of supporting a network node.

(14) "Node support pole" means a pole installed by a network provider for the primary purpose of supporting a network node.

(15) "Permit" means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

(16) "Pole" means a service pole, municipally owned utility pole, node support pole, or utility pole.

(17) "Private easement" means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

(18) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley,

waterway, or utility easement in which the municipality has an interest. The term does not include:

(A) a private easement; or

(B) the airwaves above a public right-of-way with regard to wireless telecommunications.

(19) "Public right-of-way management ordinance" means an ordinance that complies with Subchapter C.

(20) "Public right-of-way rate" means an annual rental charge paid by a network provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality.

(21) "Service pole" means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:

(A) a pole that supports traffic control functions;

(B) a structure for signage;

(C) a pole that supports lighting, other than a decorative pole; and

(D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

(22) "Transport facility" means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

(23) "Utility pole" means a pole that provides:

(A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or

(B) services of a telecommunications provider, as defined by Section 51.002, Utilities Code.

(24) "Wireless service" means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

(25) "Wireless service provider" means a person that provides wireless service to the public.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES. (a) Except as provided by Section 284.109, a network node to which this chapter applies must conform to the following conditions:

(1) each antenna that does not have exposed elements and is attached to an existing structure or pole:

(A) must be located inside an enclosure of not more than six cubic feet in volume;

(B) may not exceed a height of three feet above the existing structure or pole; and

(C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

(2) if an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna's exposed elements:

(A) must fit within an imaginary enclosure of not more than six cubic feet;

(B) may not exceed a height of three feet above the existing structure or pole; and

(C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

(3) the cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:

(A) be more than 28 cubic feet in volume; or

(B) protrude from the outer circumference of the existing structure or pole by more than two feet;

(4) ground-based enclosures, separate from the pole, may not be higher than three feet six inches from grade, wider than three feet six inches, or deeper than three feet six inches; and

(5) pole-mounted enclosures may not be taller than five feet.

(b) The following types of associated ancillary equipment are not included in the calculation of equipment volume under Subsection (a):

(1) electric meters;

(2) concealment elements;

(3) telecommunications demarcation boxes;

(4) grounding equipment;

(5) power transfer switches;

(6) cut-off switches; and

(7) vertical cable runs for the connection of power and other services.

(c) Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two feet.

(d) Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner's construction standards.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

SUBCHAPTER B. USE OF PUBLIC RIGHT-OF-WAY

Sec. 284.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to activities related to transport facilities for network nodes, activities of a network provider collocating network nodes in the public right-of-way or installing, constructing, operating, modifying, replacing, and maintaining node support poles in a public right-of-way, and municipal authority in relation to those activities.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.052. EXCLUSIVE USE PROHIBITED. A municipality may not enter into an exclusive arrangement with any person for use of the public right-of-way for the construction, operation, marketing, or maintenance of network nodes or node support poles.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.053. ANNUAL PUBLIC RIGHT-OF-WAY RATE. (a) A public right-of-way rate for use of the public right-of-way may not exceed an annual amount equal to $250 multiplied by the number of network nodes installed in the public right-of-way in the municipality's corporate boundaries.

(b) At the municipality's discretion, the municipality may

charge a network provider a lower rate or fee if the lower rate or fee is:

(1) nondiscriminatory;

(2) related to the use of the public right-of-way; and

(3) not a prohibited gift of public property.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.054. PUBLIC RIGHT-OF-WAY RATE ADJUSTMENT. (a) In this section, "consumer price index" means the annual revised Consumer Price Index for All Urban Consumers for Texas, as published by the federal Bureau of Labor Statistics.

(b) A municipality may adjust the amount of the public right-of-way rate not more often than annually by an amount equal to one-half the annual change, if any, in the consumer price index. The municipality shall provide written notice to each network provider of the new rate, and the rate shall apply to the first payment due to the municipality on or after the 60th day following that notice.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.055. USE OF PUBLIC RIGHT-OF-WAY AND APPLICABLE RATE. (a) A network provider that wants to connect a network node to the network using the public right-of-way may:

(1) install its own transport facilities subject to Subsection (b); or

(2) obtain transport service from a person that is paying municipal fees to occupy the public right-of-way that are the equivalent of not less than $28 per node per month.

(b) A network provider may not install its own transport facilities unless the provider:

(1) has a permit to use the public right-of-way; and

(2) pays to the municipality a monthly public right-of-way rate for transport facilities in an amount equal to $28 multiplied by the number of the network provider's network nodes located in the public right-of-way for which the installed transport facilities provide backhaul unless or until the time the network provider's

payment of municipal fees to the municipality exceeds its monthly aggregate per-node compensation to the municipality.

(c) A public right-of-way rate required by Subsection (b) is in addition to any public right-of-way rate required by Section 284.053.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.056. COLLOCATION OF NETWORK NODES ON SERVICE POLES. A municipality, subject to an agreement with the municipality that does not conflict with this chapter, shall allow collocation of network nodes on service poles on nondiscriminatory terms and conditions and at a rate not greater than $20 per year per service pole.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.057. PROHIBITION ON OTHER COMPENSATION. A municipality may not require a network provider to pay any compensation other than the compensation authorized by this chapter for the right to use a public right-of-way for network nodes, node support poles, or transport facilities for network nodes.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

SUBCHAPTER C. ACCESS AND APPROVALS

Sec. 284.101. RIGHT OF ACCESS TO PUBLIC RIGHT-OF-WAY. (a) Except as specifically provided by this chapter, and subject to the requirements of this chapter and the approval of a permit application, if required, a network provider is authorized, as a permitted use, without need for a special use permit or similar zoning review and not subject to further land use approval, to do the following in the public right-of-way:

(1) construct, modify, maintain, operate, relocate, and remove a network node or node support pole;

(2) modify or replace a utility pole or node support pole; and

(3) collocate on a pole, subject to an agreement with the municipality that does not conflict with this chapter.

(b) A network provider taking an action authorized by Subsection (a) is subject to applicable codes, including applicable public right-of-way management ordinances.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.102. GENERAL CONSTRUCTION AND MAINTENANCE REQUIREMENTS. A network provider shall construct and maintain network nodes and node support poles described by Section 284.101 in a manner that does not:

(1) obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;

(2) obstruct the legal use of a public right-of-way by other utility providers;

(3) violate nondiscriminatory applicable codes;

(4) violate or conflict with the municipality's publicly disclosed public right-of-way design specifications; or

(5) violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.103. GENERAL LIMITATION ON PLACEMENT OF POLES. A network provider shall ensure that each new, modified, or replacement utility pole or node support pole installed in a public right-of-way in relation to which the network provider received approval of a permit application does not exceed the lesser of:

(1) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or

(2) 55 feet above ground level.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.104. INSTALLATION IN MUNICIPAL PARKS AND RESIDENTIAL AREAS. (a) A network provider may not install a new node support pole in a public right-of-way without the municipality's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a municipal park or is adjacent to a street or thoroughfare that is:

(1) not more than 50 feet wide; and

(2) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

(b) In addition to the requirement prescribed by Subsection (a), a network provider installing a network node or node support pole in a public right-of-way described by Subsection (a) shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.105. INSTALLATION IN HISTORIC OR DESIGN DISTRICTS. (a) A network provider must obtain advance approval from a municipality before collocating new network nodes or installing new node support poles in an area of the municipality zoned or otherwise designated as a historic district or as a design district if the district has decorative poles. As a condition for approval of new network nodes or new node support poles in a historic district or a design district with decorative poles, a municipality may require reasonable design or concealment measures for the new network nodes or new node support poles. A municipality may request that a network provider comply with the design and aesthetic standards of the historic or design district and explore the feasibility of using certain camouflage measures to improve the aesthetics of the new network nodes, new node support poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in a historic district or on a design district's decorative poles.

(b) This section may not be construed to limit a municipality's authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47

U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section 1455(a), or the National Historic Preservation Act of 1966 (54 U.S.C. Section 300101 et seq.), and the regulations adopted to implement those laws.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.106. EQUIPMENT CABINETS. A network provider shall ensure that the vertical height of an equipment cabinet installed as part of a network node does not exceed the height limitation prescribed by Section 284.003, subject to approval of the pole's owner if applicable.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.107. COMPLIANCE WITH UNDERGROUNDING REQUIREMENT. (a) A network provider shall, in relation to installation for which the municipality approved a permit application, comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

(b) A requirement or restriction described by Subsection (a) may not be interpreted to prohibit a network provider from replacing an existing structure.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.108. DESIGN MANUAL. (a) A municipality may adopt a design manual for the installation and construction of network nodes and new node support poles in the public right-of-way that includes additional installation and construction details that do not conflict with this chapter. The design manual may include:

(1) a requirement that an industry standard pole load

analysis be completed and submitted to the municipality indicating that the service pole to which the network node is to be attached will safely support the load; and

(2) a requirement that network node equipment placed on new and existing poles be placed more than eight feet above ground level.

(b) A network provider shall comply with a design manual, if any, in place on the date a permit application is filed in relation to work for which the municipality approved the permit application. A municipality's obligations under Section 284.154 may not be tolled or extended pending the adoption or modification of a design manual.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.109. EXCEPTIONS. Subject to Subchapter D, a network provider may construct, modify, or maintain in a public right-of-way a network node or node support pole that exceeds the height or distance limitations prescribed by this chapter only if the municipality approves the construction, modification, or maintenance subject to all applicable zoning or land use regulations and applicable codes.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.110. DISCRIMINATION PROHIBITED. A municipality, in the exercise of the municipality's administrative and regulatory authority related to the management of and access to the public right-of-way, must be competitively neutral with regard to other users of the public right-of-way.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

SUBCHAPTER D. APPLICATIONS AND PERMITS

Sec. 284.151. PROHIBITION OF CERTAIN MUNICIPAL ACTIONS. (a) Except as otherwise provided by this chapter, a municipality may not prohibit, regulate, or charge for the installation or collocation of

network nodes in a public right-of-way.

(b) A municipality may not directly or indirectly require, as a condition for issuing a permit required under this chapter, that the applicant perform services unrelated to the installation or collocation for which the permit is sought, including in-kind contributions such as reserving fiber, conduit, or pole space for the municipality.

(c) A municipality may not institute a moratorium, in whole or in part, express or de facto, on:

(1) filing, receiving, or processing applications; or

(2) issuing permits or other approvals, if any, for the installation of network nodes or node support poles.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.152. AUTHORITY TO REQUIRE PERMIT. (a) Except as otherwise provided by this chapter, a municipality may require a network provider to obtain one or more permits to install a network node, node support pole, or transport facility in a public right-of-way if the permit:

(1) is of general applicability to users of the public right-of-way;

(2) does not apply exclusively to network nodes; and

(3) is processed on nondiscriminatory terms and conditions regardless of the type of entity submitting the application for the permit.

(b) A network provider that wants to install or collocate multiple network nodes inside the territorial jurisdiction of a single municipality is entitled to file a consolidated permit application with the municipality for not more than 30 network nodes and receive permits for the installation or collocation of those network nodes.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.153. GENERAL PROCESS RELATING TO PERMIT APPLICATION. (a) Except as otherwise provided by this section, a municipality may

not require an applicant to provide more information to obtain the permit than a telecommunications utility that is not a network provider is required to provide unless the information directly relates to the requirements of this chapter.

(b) As part of the standard form for a permit application, a municipality may require the applicant to include applicable construction and engineering drawings and information to confirm that the applicant will comply with the municipality's publicly disclosed public right-of-way design specifications and applicable codes.

(c) A municipality may require an applicant to provide:

(1) information reasonably related to the provider's use of the public right-of-way under this chapter to ensure compliance with this chapter;

(2) a certificate that the network node complies with applicable regulations of the Federal Communications Commission; and

(3) certification that the proposed network node will be placed into active commercial service by or for a network provider not later than the 60th day after the date the construction and final testing of the network node is completed.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.154. MUNICIPAL REVIEW PROCESS. (a) A municipality shall process each permit application on a nondiscriminatory basis.

(b) Not later than the 30th day after the date the municipality receives an application for a permit for a network node or node support pole, or the 10th day after the date the municipality receives an application for a permit for a transport facility, the municipality shall determine whether the application is complete and notify the applicant of that determination. If the municipality determines that the application is not complete, the municipality shall specifically identify the missing information.

(c) A municipality shall approve an application that does not require zoning or land use approval under this chapter unless the application or the corresponding work to be performed under the permit does not comply with the municipality's applicable codes or other municipal rules, regulations, or other law that is consistent with this chapter.

(d) A municipality must approve or deny an application for a node support pole not later than the 150th day after the date the municipality receives the complete application. A municipality must approve or deny an application for a network node not later than the 60th day after the date the municipality receives the complete application. A municipality must approve or deny an application for a transport facility not later than the 21st day after the date the municipality receives a complete application. An application for a permit for a node support pole, network node, or transport facility shall be deemed approved if the application is not approved or denied on or before the applicable date for approval or denial prescribed by this subsection.

(e) A municipality that denies a complete application must document the basis for the denial, including the specific applicable code provisions or other municipal rules, regulations, or other law on which the denial was based. The municipality shall send the documentation by electronic mail to the applicant on or before the date the municipality denies the application.

(f) Not later than the 30th day after the date the municipality denies the application, the applicant may cure the deficiencies identified in the denial documentation and resubmit the application without paying an additional application fee, other than a fee for actual costs incurred by the municipality. Notwithstanding Subsection (d), the municipality shall approve or deny the revised completed application after a denial not later than the 90th day after the date the municipality receives the completed revised application. The municipality's review of the revised application is limited to the deficiencies cited in the denial documentation.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.155. TIME OF INSTALLATION. (a) A network provider shall begin the installation for which a permit is granted not later than six months after final approval and shall diligently pursue the installation to completion.

(b) Notwithstanding Subsection (a), the municipality may place a longer time limit on completion or grant reasonable extensions of time as requested by the network provider.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.156. APPLICATION FEES. (a) A municipality may charge an application fee for a permit only if the municipality requires the payment of the fee for similar types of commercial development inside the municipality's territorial jurisdiction other than a type for which application or permit fees are not allowed by law.

(b) The amount of an application fee charged by a municipality may not exceed the lesser of:

(1) the actual, direct, and reasonable costs the municipality determines are incurred in granting or processing an application that are reasonably related in time to the time the costs of granting or processing an application are incurred; or

(2) $500 per application covering up to five network nodes, $250 for each additional network node per application, and $1,000 per application for each pole.

(c) In determining for purposes of Subsection (b)(1) the amount of the actual, direct, and reasonable costs, the municipality may not:

(1) include costs incurred by the municipality in relation to third-party legal or engineering review of an application; or

(2) direct payments or reimbursement of third-party public right-of-way rates or fees charged on a contingency basis or under a result-based arrangement.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.157. CERTAIN WORK EXEMPTED. (a) Notwithstanding any other provision of this chapter, a municipality may not require a network provider to submit an application, obtain a permit, or pay a rate for:

(1) routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;

(2) replacing or upgrading a network node or pole with a node or pole that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular

lanes in a public right-of-way; or

(3) the installation, placement, maintenance, operation, or replacement of micro network nodes that are strung on cables between existing poles or node support poles, in compliance with the National Electrical Safety Code.

(b) For purposes of Subsection (a)(2):

(1) a network node or pole is considered to be "substantially similar" if:

(A) the new or upgraded network node, including the antenna or other equipment element, will not be more than 10 percent larger than the existing node, provided that the increase may not result in the node exceeding the size limitations provided by Section 284.003; and

(B) the new or upgraded pole will not be more than 10 percent higher than the existing pole, provided that the increase may not result in the pole exceeding the applicable height limitations prescribed by Section 284.103;

(2) the replacement or upgrade does not include replacement of an existing node support pole; and

(3) the replacement or upgrade does not defeat existing concealment elements of a node support pole.

(c) The determination under Subsection (b)(1) of whether a replacement or upgrade is substantially similar is made by measuring from the dimensions of the network node or node support pole as approved by the municipality.

(d) Notwithstanding Subsection (a):

(1) a municipality may require advance notice of work described by that subsection;

(2) a network provider may replace or upgrade a pole only with the approval of the pole's owner; and

(3) the size limitations may not in any event exceed the parameters prescribed by Section 284.003 without the municipality's approval in accordance with Section 284.109, with the municipality acting on behalf of this state as the fiduciary trustee of public property.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

SUBCHAPTER E. ACCESS TO MUNICIPALLY OWNED UTILITY POLES

Sec. 284.201. USE OF MUNICIPALLY OWNED UTILITY POLES. (a) The governing body of a municipally owned utility shall allow collocation of network nodes on municipally owned utility poles on nondiscriminatory terms and conditions and pursuant to a negotiated pole attachment agreement, including any applicable permitting requirements of the municipally owned utility.

(b) The annual pole attachment rate for the collocation of a network node supported by or installed on a municipally owned utility pole shall be based on a pole attachment rate consistent with Section 54.204, Utilities Code, applied on a per-foot basis.

(c) The requirements of Subchapters B, C, and D applicable to the installation of a network node supported by or installed on a pole do not apply to a network node supported by or installed on a municipally owned utility pole.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

SUBCHAPTER F. EFFECT ON OTHER UTILITIES AND PROVIDERS

Sec. 284.251. DEFINITIONS. In this subchapter:

(1) "Cable service" and "video service" have the meanings assigned by Section 66.002, Utilities Code.

(2) "Electric cooperative" has the meaning assigned by Section 11.003, Utilities Code.

(3) "Electric utility" has the meaning assigned by Section 31.002, Utilities Code.

(4) "Telecommunications provider" has the meaning assigned by Section 51.002, Utilities Code.

(5) "Telephone cooperative" has the meaning assigned by Section 162.003, Utilities Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.252. EFFECT ON INVESTOR-OWNED ELECTRIC UTILITIES, ELECTRIC COOPERATIVES, TELEPHONE COOPERATIVES, AND TELECOMMUNICATIONS PROVIDERS. Nothing in this chapter shall govern attachment of network nodes on poles and other structures owned or operated by

investor-owned electric utilities, electric cooperatives, telephone cooperatives, or telecommunications providers. This chapter does not confer on municipalities any new authority over those utilities, cooperatives, or providers.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.253. EFFECT ON PROVIDERS OF CABLE SERVICES OR VIDEO SERVICES. (a) An approval for the installation, placement, maintenance, or operation of a network node or transport facility under this chapter may not be construed to confer authorization to provide:

(1) cable service or video service without complying with all terms of Chapter 66, Utilities Code; or

(2) information service as defined by 47 U.S.C. Section 153(24), or telecommunications service as defined by 47 U.S.C. Section 153(53), in the public right-of-way.

(b) Except as provided by this chapter, a municipality may not adopt or enforce any regulations or requirements that would require a wireless service provider, or its affiliate, that holds a cable or video franchise under Chapter 66, Utilities Code, to obtain any additional authorization or to pay any fees based on the provider's provision of wireless service over its network nodes.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

SUBCHAPTER G. GENERAL CONDITIONS OF ACCESS

Sec. 284.301. LOCAL POLICE-POWER-BASED REGULATIONS. (a) Subject to this chapter and applicable federal and state law, a municipality may continue to exercise zoning, land use, planning, and permitting authority in the municipality's boundaries, including with respect to utility poles.

(b) A municipality may exercise that authority to impose police-power-based regulations for the management of the public right-of-way that apply to all persons subject to the municipality.

(c) A municipality may impose police-power-based regulations in the management of the activities of network providers in the public

right-of-way only to the extent that the regulations are reasonably necessary to protect the health, safety, and welfare of the public.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.302. INDEMNIFICATION. The indemnification provisions of Sections 283.057(a) and (b) apply to a network provider accessing a public right-of-way under this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.303. RELOCATION. Except as provided in existing state and federal law, a network provider shall relocate or adjust network nodes in a public right-of-way in a timely manner and without cost to the municipality managing the public right-of-way.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

Sec. 284.304. INTERFERENCE. (a) A network provider shall operate all network nodes in accordance with all applicable laws, including regulations adopted by the Federal Communications Commission.

(b) A network provider shall ensure that the operation of a network node does not cause any harmful radio frequency interference to a Federal Communications Commission-authorized mobile telecommunications operation of the municipality operating at the time the network node was initially installed or constructed. On written notice, a network provider shall take all steps reasonably necessary to remedy any harmful interference.

Added by Acts 2017, 85th Leg., R.S., Ch. 591 (S.B. 1004), Sec. 1, eff. September 1, 2017.

SUBTITLE B. COUNTY PUBLIC BUILDINGS

CHAPTER 291. GENERAL BUILDING PROVISIONS AFFECTING COUNTIES

Sec. 291.001. PROVIDING AND MAINTAINING COUNTY BUILDINGS. The commissioners court of a county shall:

(1) provide, as soon as practicable after a county seat is established or moved, a courthouse and offices for county officers at the county seat;

(2) provide other necessary public buildings; and

(3) maintain the courthouse, offices, and other public buildings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 291.002. OFFICES AT COUNTY SEAT. The county judge, sheriff, clerks of the district and county courts, county treasurer, tax assessor-collector, county surveyor, and county attorney shall keep their offices at the county seat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 291.003. CONTROL OF COURTHOUSE. The county sheriff shall have charge and control of the county courthouse, subject to the regulations of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 291.004. PROVISION OF OFFICES, SUPPLIES, AND COURTROOMS TO CERTAIN JUSTICES OF THE PEACE. (a) If requested by a justice of the peace of a county who handles an average of more than 50 cases a month during the 12 months preceding the date of the request, the commissioners court of the county shall furnish the justice of the peace with suitable office space and necessary telephones, equipment, and supplies. The commissioners court shall furnish the items at the beginning of the first fiscal year after the date the request is made. The items are in addition to the compensation and expenses provided for by Subchapter B, Chapter 152.

(b) The commissioners court may also provide a suitable courtroom for each justice of the peace.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 291.005. MAINTENANCE EMPLOYEES IN COUNTIES WITH POPULATION OF MORE THAN 500,000. (a) The commissioners court of a county with a population of more than 500,000 shall direct and control the employees needed to repair, maintain, and operate the county's courthouses and criminal court buildings.

(b) The commissioners court may designate a building superintendent to employ the personnel. Employments are subject to approval by the commissioners court. An employment must:

(1) be in writing and signed by the employee; and

(2) state the nature of the duties to be performed, the period of employment, the hours to be worked, and the amount to be paid.

(c) The employment of a person under this section ends January 1 of each year but may be renewed from year to year. The commissioners court may discharge the employee at any time for cause.

(d) The number of employees appointed under this section is subject to the approval of the county auditor.

(e) Regardless of Subsections (a)-(d), the sheriff is responsible for employing and discharging, as provided by other law, the employees engaged in the operation of county jails. The employees necessary for the proper conduct of the jails or the safekeeping of prisoners are under the exclusive direction and control of the sheriff.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 291.006. PRIVATE BUSINESS ON PUBLIC PROPERTY. (a) A county official or an agent, deputy, or employee of a county official may not operate a private business on public property unless the person:

(1) keeps an accurate and detailed record of money that the person receives and disburses;

(2) files with the county auditor or other county auditing authority, on or before January 1 of each year, a report of receipts and disbursements during the previous calendar year; and

(3) makes available to the county auditor all records of

the receipts and disbursements.

(b) An amount of money equal to the amount of receipts required to be reported plus any interest paid by a financial institution on deposits of this money, less the amount of disbursements required to be reported, shall be delivered to the county treasurer when the report required by Subsection (a) is filed or in installments at regular intervals during the year as may be prescribed by the county auditor or other county auditing authority. This subsection does not apply to a person acting under or by virtue of a written contract with the county.

(c) If a county official has not complied with this section by February 1 of each year, the county auditor shall notify the county or district attorney of the violation. The county or district attorney shall, and any qualified voter of the county may, file a petition in a district court of the county for a writ of mandamus to compel compliance.

(d) A person who violates this section or falsifies a record or report required by this section commits official misconduct and may be removed under Chapter 87.

(e) This section does not apply to compensation that a justice of the peace or official court reporter receives for performing an act not required by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 291.007. NONBINDING REFERENDUM ON COUNTY PROPERTY MATTER. The commissioners court of a county with a population of less than 40,000 may order a nonbinding referendum in the county on any matter affecting county property. The referendum must be held on an authorized uniform election date as provided by Chapter 41, Election Code.

Added by Acts 1993, 73rd Leg., ch. 368, Sec. 1, eff. Aug. 30, 1993.

Sec. 291.010. SECURITY SERVICES IDENTIFICATION CARD. (a) The commissioners court of a county by order may:

(1) authorize the issuance of an identification card to individuals permitting entrance into a county building that houses a justice court, county court, county court at law, or district court

without passing through the security services provided under Article 102.017, Code of Criminal Procedure; and

(2) set a reasonable fee for the issuance of the identification card to individuals other than county employees.

(b) The commissioners court shall adopt standards for issuing an identification card described by this section to ensure public safety and security.

(c) This section does not authorize a person to possess a firearm, as that term is defined by Section 46.01, Penal Code, in a county building that houses a justice court, county court, county court at law, or district court. A person who possesses a firearm in any court described by this section or in any office used by the court without the court's written authorization or without complying with any written regulation of the court is subject to the penalties provided by Chapter 46, Penal Code.

Added by Acts 1999, 76th Leg., ch. 754, Sec. 1, eff. Aug. 30, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 827 (H.B. 3003), Sec. 1, eff. September 1, 2011.

Sec. 291.011. ADVERTISING INSIDE CERTAIN COUNTY FACILITIES. (a) The commissioners court of a county may enter into an agreement with a public or private entity for a digital message display system to promote county information or news items of general interest in:

(1) a publicly accessible area of the office of the tax assessor-collector or a branch office established under Section 292.025, 292.026, or 292.027 for which a deputy assessor-collector has been appointed; or

(2) a jury assembly room.

(b) For the purpose of funding a digital message display system, a portion of the information displayed on the system may consist of digital advertisements. The commissioners court may review and has the right to reject any proposed advertising to be displayed on a system.

Added by Acts 2015, 84th Leg., R.S., Ch. 485 (H.B. 1542), Sec. 3, eff. June 16, 2015.

CHAPTER 292. AUXILIARY COUNTY BUILDINGS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 292.001. AUTHORITY FOR BUILDINGS OTHER THAN COURTHOUSE; LEASE TO OTHER PERSONS; LOCATION OF JUSTICE OF PEACE COURT. (a) The commissioners court of a county may purchase, construct, or provide by other means, including a lease or a lease with an option to purchase, or may reconstruct, improve, or equip a building or rooms, other than the courthouse, for the housing of county or district offices, county or district courts, justice of the peace courts, county records or equipment (including voting machines), or county jail facilities, or for the conducting of other public business, if the commissioners court determines that the additional building or rooms are necessary. The commissioners court may purchase and improve the necessary site for the building or rooms.

(b) Except as provided by this subsection and to the extent permitted under other law, the building or rooms must be located in the county seat. If the building or rooms are for housing a county or district court in buildings or rooms designated for that purpose, or for housing county jail facilities, the building or rooms may be located anywhere in the county at the discretion of the commissioners court.

(c) The commissioners court may lease or rent to any person any part of the building or rooms that are not necessary for the purposes described by Subsection (a).

(d) A justice of the peace court may not be housed or conducted in a building located outside the court's precinct except as provided by Section 27.051(f) or 27.0515, Government Code, or unless the justice of the peace court is situated in the county courthouse in a county with a population of at least 305,000 persons and the county seat of which is located in the Llano Estacado region of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 64(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1223, Sec. 2, eff. June 16, 1989; Acts 1989, 71st Leg., 1st C.S., ch. 31, Sec. 1, eff. Oct. 18, 1989; Acts 1993, 73rd Leg., ch. 825, Sec. 1, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 669, Sec. 84, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1409, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 87, eff.

September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 15, eff. June 7, 2019.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 3.06, eff. September 1, 2021.

Sec. 292.002. FACILITIES OUTSIDE COUNTY SEAT. (a) The commissioners court of a county may provide an office building or a jail facility at a location in the county outside the county seat in the same manner that is applicable to such a building or facility at the county seat. The commissioners court may provide for the building or facility through the issuance of bonds as provided by Subtitles A, C, and D, Title 9, Government Code, or through the issuance of other evidences of indebtedness in the same manner as bonds or evidences of indebtedness applicable to a courthouse or jail at the county seat. The commissioners court may provide office space in the building or facility for any county or precinct office. However, a county officer who is provided space in the building or facility shall maintain an office at the county seat and shall keep the original records of office at that office unless otherwise required during a disaster, as defined by Section 418.004, Government Code.

(b) The commissioners court may authorize places located in the county but outside the municipality designated as the county seat as auxiliary courts for the holding of court proceedings and may designate those places as auxiliary county seats for this purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 419, Sec. 1, eff. May 28, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.304, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 16, eff. June 7, 2019.

Sec. 292.0025. FACILITIES OUTSIDE COUNTY SEAT IN CERTAIN COUNTIES. (a) This section applies only to a county that has a population of 18,000 or less.

(b) The commissioners court of a county may provide an

auxiliary court, office building, or jail facility at a location in the county and within five miles of the boundaries of the county seat in the same manner that is applicable to a court, building, or facility at the county seat. The commissioners court may provide for the building or facility through the issuance of bonds or other evidences of indebtedness as provided under Section 292.002 and may provide office space in the building or facility for any county or precinct office.

(c) The auxiliary court may be used for the holding of court proceedings, including district court proceedings. For the purpose of the court proceedings, the commissioners court may designate the location of the auxiliary court as an auxiliary county seat.

(d) The records of a county officer who is provided space at a court, building, or facility under this section and the records of the auxiliary court may be kept at the court, building, or facility.

Added by Acts 2003, 78th Leg., ch. 169, Sec. 1, eff. May 27, 2003.

Sec. 292.003. FACILITIES IN CERTAIN MUNICIPALITIES OUTSIDE COUNTY SEAT. (a) The commissioners court of a county may provide, maintain, and repair a branch office building or a branch jail in a municipality with a population of 15,000 or more, other than the county seat, in the same manner as the court may take those actions at the county seat. The commissioners court may finance those actions through the issuance of bonds as provided by Subtitles A, C, and D, Title 9, Government Code, or through the issuance of evidences of indebtedness in the same manner as evidences of indebtedness applicable to a courthouse or jail at the county seat. Taxes may be levied for the bonds or evidences of indebtedness in the same manner and subject to the same limitations applicable to a courthouse or jail at the county seat. The cost of the facility may not exceed two percent of the taxable value of the property in the county in the previous year. The commissioners court has custody of and shall care for the facility.

(b) On provision of a facility under this section, the commissioners court may allow a county officer, except the district clerk, a county or district judge, the county clerk, and the county treasurer, to maintain a branch office and provide deputies in the municipality where the facility is located, in the manner authorized

by Sections 292.024, 292.026, and 292.028. The commissioners court may limit the authorization and maintenance of branch offices.

(c) A county officer shall keep the original records of office at the county seat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 64(c), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1420, Sec. 8.305, eff. Sept. 1, 2001.

Sec. 292.004. FACILITIES WITHIN MUNICIPALITY DESIGNATED AS COUNTY SEAT. (a) The commissioners court of a county may provide, inside the municipality designated as the county seat, an auxiliary courthouse, a jail, a parking garage, a facility for district, county, and precinct administrative and judicial offices and courtrooms, or any facility related to the administration of civil or criminal justice. For the purposes of this section, the municipality designated as the county seat includes territory added to the municipality after it became the county seat but excludes any part of the municipality outside the county.

(b) The commissioners court may:

(1) acquire a necessary site;

(2) purchase, construct, equip, or enlarge the facility; and

(3) repair and maintain the facility.

(c) If the commissioners court designates the facility as an auxiliary courthouse, the facility may not replace the courthouse at the county seat.

(d) A court required by law to hold its terms at the county seat may hold its terms at a court facility provided under this section.

(e) A district, county, or precinct officer required by law to maintain an office at the county seat may maintain an office and keep official records at a facility provided under this section. The officer must also keep an office at the county seat.

(f) This section does not limit the authority of the commissioners court under any other law relating to the providing of county facilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 601, Sec. 2, eff. June 14, 1989.

Sec. 292.005. ISSUANCE OF BOAT AND OUTBOARD MOTOR CERTIFICATES AT BRANCH OFFICES. Each office of the tax assessor-collector away from the courthouse that maintains a permanent, full-time employee shall accept applications for and issue boat certificates of number, boat certificates of title, and outboard motor certificates of title, as provided for by Subchapters B and B-1, Chapter 31, Parks and Wildlife Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 292.006. BRANCH OFFICE OF COUNTY CLERK. (a) On the request of the county clerk, the commissioners court of a county may provide by any means, operate, and maintain one or more branch offices at any place in the county for the county clerk.

(b) If a branch office is provided under this section in a building owned by the county, the commissioners court shall operate and maintain the building in the same manner that it operates and maintains the county courthouse. The commissioners court shall have care and custody of the building and may place any limitations on the use and maintenance of the building it finds necessary.

(c) The county clerk may authorize one or more of the clerk's deputies to work in the branch office to conduct any business as determined by the county clerk and in accordance with Subsection (d).

(d) If the recording of instruments or documents in the county's official records is permitted at a branch office by the county clerk, the recording must be by electronic means and the electronically recorded instruments or documents must be available without delay to members of the public in the county clerk's office at the county seat. For purposes of this subsection, an instrument or document is available if it is capable of being:

(1) electronically examined by a member of the public in the county clerk's office at the county seat; and

(2) placed into a format and medium that a member of the public can electronically process using technology that is generally available and nonproprietary.

(e) On a daily basis, as directed by the county clerk, a deputy at a branch office shall file all original records made at that

office during the previous day with the county clerk's office at the county seat not later than the start of the next business day.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 65(a), eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 121, Sec. 1, eff. Aug. 30, 1999.

SUBCHAPTER B. AUXILIARY FACILITIES IN CERTAIN COUNTIES

Sec. 292.021. FACILITIES IN CERTAIN COUNTIES WITH POPULATIONS OF 90,001 TO 225,000. (a) This section applies only to a county that has:

(1) a population of 90,001 to 225,000;

(2) an assessed valuation on property for property tax purposes of more than $125 million;

(3) four or more municipalities; and

(4) a municipality with a population of more than 50,000.

(b) If the commissioners court of a county determines that the courthouse is inadequate to properly house all county offices, that the jail is inadequate to properly confine prisoners, or that an agricultural building is necessary, the commissioners court may purchase, construct, or acquire in another manner a building and, when necessary, a site for the building to satisfy the determined need at any location in the county. The building may contain an auditorium, which may be used by the commissioners court or a county office or officer for any proper county or public purpose. The building or site must be paid for from the permanent improvement fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 292.022. FACILITIES IN CERTAIN COUNTIES WITH POPULATIONS OVER 110,000. (a) This section applies only to a county with a population of more than 110,000.

(b) The commissioners court of a county may acquire land for a branch county office building, may purchase, construct, repair, equip, or improve the building, and may acquire the building through a lease or lease with an option to purchase, at a location in a municipality that:

(1) has a population of 10,000 or more;

(2) is not the county seat; and

(3) is not contiguous to the county seat.

(c) The commissioners court may issue bonds or certificates of indebtedness and may levy and collect taxes to implement this section. Bonds and certificates of indebtedness issued under this section are negotiable instruments and may be paid from the permanent improvement fund of the county.

(d) Bonds and certificates of indebtedness issued under this section must:

(1) be authorized by order of the commissioners court;

(2) be signed by the county judge, attested by the county clerk, and registered by the county treasurer;

(3) mature in 40 years or less;

(4) bear interest at a rate not to exceed the interest rate prescribed by Chapter 1204, Government Code; and

(5) have attached coupons evidencing the interest.

(e) Bonds under this section must be issued in compliance with Subtitles A and C, Title 9, Government Code.

(f) The commissioners court shall submit bonds and certificates issued under this section and records relating to their issuance to the attorney general. If the attorney general approves the bonds or certificates as issued in accordance with state law, the comptroller of public accounts shall register them. On approval, registration, and delivery to the purchaser, the bonds or certificates are incontestable.

(g) This section does not permit the establishment of a branch office away from the county seat if this establishment is forbidden by other law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1409, Sec. 7, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.306, eff. Sept. 1, 2001.

Sec. 292.023. FACILITIES IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of:

(1) 32,800 to 34,000; or

(2) 98,000 to 105,000.

(b) The commissioners court of a county may provide for, operate, and maintain a branch courthouse outside the county seat. The commissioners court may provide for the branch courthouse by

constructing a building or by purchasing, renting, or leasing office space. The expense of operating and maintaining the branch courthouse must be paid from county funds used to operate and maintain other county buildings.

(c) If the branch courthouse is in a county-owned building, the commissioners court has care and custody of the building. The commissioners court:

(1) shall operate and maintain the building as it operates and maintains the county courthouse; and

(2) may limit the use and maintenance of the building as it finds necessary.

(d) On approval of the commissioners court, an office, a department, a facility, a court, or other agency of the county may maintain a branch office in the branch courthouse.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 96, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 85, 86, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 88, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 159, eff. September 1, 2023.

Sec. 292.0231. FACILITIES IN COUNTIES WITH POPULATIONS UNDER 30,000. (a) This section applies only to a county with a population of less than 30,000.

(b) The commissioners court of a county may provide for, operate, and maintain a branch courthouse outside the county seat. The commissioners court may provide for a branch courthouse by constructing a building or by purchasing, renting, or leasing office space. The expense of operating and maintaining the branch courthouse must be paid from county funds used to operate and maintain other county buildings.

(c) If the branch courthouse is in a county-owned building, the commissioners court:

(1) has care and custody of the building;

(2) may operate and maintain the building as it operates and maintains the county courthouse; and

(3) may limit the use and maintenance of the building as it finds necessary.

(d) On approval of the commissioners court, an office, a department, a facility, a court, or another agency of the county or of a judicial district may:

(1) maintain a branch office in the branch courthouse; and

(2) conduct any function at the branch courthouse that the entity is authorized to conduct at the courthouse located inside the county seat.

Added by Acts 1995, 74th Leg., ch. 15, Sec. 1, eff. Aug. 28, 1995.

Sec. 292.024. TAX ASSESSOR-COLLECTOR FACILITIES IN COUNTIES WITH LARGE MUNICIPALITIES. The commissioners court of a county may by order authorize the tax assessor-collector to maintain a branch office in a municipality with a population of 5,000 or more, other than the county seat, and to appoint a deputy assessor-collector for the branch office. The salary of a deputy assessor-collector and the expenses of the branch office are necessary expenses of the tax assessor-collector and shall be paid as the expenses of the tax assessor-collector are paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(r), eff. Aug. 28, 1989.

Sec. 292.025. FACILITIES IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of 35,850 to 36,000.

(b) The commissioners court of a county may construct, operate, and maintain a branch office building or a branch jail in a municipality other than the county seat in the same manner as the court may take those actions at the county seat. The commissioners court may finance those actions through the issuance of bonds as provided by Subtitles A, C, and D, Title 9, Government Code, or through the issuance of evidences of indebtedness in the same manner as evidences of indebtedness applicable to a courthouse or jail at the county seat. Taxes may be levied for the bonds or evidences of indebtedness in the same manner and subject to the same limitations applicable to a courthouse or jail at the county seat. The

commissioners court has custody of and shall care for the building.

(c) The commissioners court may allow the tax assessor-collector to maintain a branch office in the building. The commissioners court may allow the maintenance of a jail and justice court in the building. The commissioners court may limit the authorization and maintenance of facilities under this subsection as it considers proper. The expenses incidental to maintaining these facilities are expenses of the county.

(d) A county officer shall keep the original records of office at the county seat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 64(d), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 597, Sec. 97, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 87, 88, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.307, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 89, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 160, eff. September 1, 2023.

Sec. 292.026. TAX ASSESSOR-COLLECTOR FACILITIES IN CERTAIN COUNTIES WITH POPULATIONS OVER 70,000. (a) This section applies only to a county with a population of more than 70,000.

(b) The commissioners court of a county may allow the tax assessor-collector to maintain a branch office in a municipality with a population of more than 1,000, other than the county seat.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 292.027. TAX ASSESSOR-COLLECTOR FACILITIES IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of 57,900 to 59,000.

(b) The commissioners court of a county may provide for, operate, and maintain a branch office for the tax assessor-collector. The commissioners court may provide for the branch office by constructing a building or by purchasing, renting, or leasing office space.

(c) If the branch office is in a county-owned building, the commissioners court has custody of and shall care for the building. The commissioners court:

(1) shall operate and maintain the building as it operates and maintains the county courthouse; and

(2) may limit the use and maintenance of the building as it finds necessary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 98, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 89, 90, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 90, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 161, eff. September 1, 2023.

Sec. 292.028. MAINTENANCE OF CERTAIN TAX OFFICES. (a) The commissioners court of a county that establishes a branch office under Section 292.025, 292.026, or 292.027 may appoint a deputy assessor-collector for that office.

(b) The deputy assessor-collector may collect taxes from persons wishing to pay at the branch office and may issue a valid receipt for those taxes. The deputy assessor-collector is subject to the law relating to deputy tax collectors.

(c) The deputy assessor-collector shall enter into a bond payable to the county judge and conditioned that the deputy will faithfully perform the duties of the position. The terms of the bond must be in accordance with the requirements of the tax assessor-collector and commissioners court.

(d) The commissioners court shall fix the period of service of the deputy assessor-collector and the period that a branch office may be maintained. The salary of the deputy assessor-collector and the expenses of the branch office are necessary expenses of the tax assessor-collector and shall be paid as the expenses of the tax assessor-collector are paid.

(e) This section does not limit the liability of the bonds of the tax assessor-collector or the deputy assessor-collector. The tax assessor-collector is liable on the assessor-collector's bond for the

taxes collected by the deputy assessor-collector.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 292.029. COURT FACILITIES IN POPULOUS COUNTIES. (a) This section applies only to a county with a population of 2.2 million or more.

(b) The commissioners court of a county may designate a specific geographical location in the county other than the county courthouse as an auxiliary county seat for the holding of nonjury court proceedings.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 91, 92, eff. Sept. 1, 2001.

Sec. 292.030. FACILITIES IN UNINCORPORATED AREA OF COUNTY. (a) The commissioners court of a county may purchase, construct, reconstruct, improve, equip, or provide for by other means, including by lease or lease with an option to purchase, a branch office in the unincorporated area of the county.

(b) Any county officer may maintain an office and the county may provide any county service at the branch office authorized by this section. The maintenance of an office or the provision of a service at the branch office must be in addition to an office maintained or service provided at any other location required by law.

Added by Acts 2005, 79th Leg., Ch. 502 (H.B. 571), Sec. 1, eff. June 17, 2005.
Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 30, eff. September 1, 2005.

Sec. 292.031. FACILITIES OUTSIDE COUNTY SEAT IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of less than 50,000 that is adjacent to a county with a population of more than 3.3 million.

(b) The commissioners court of a county may provide an auxiliary court facility, office building, or jail facility at a location in the county and within 10 miles of the boundaries of the

county seat in the same manner that is applicable to a court, building, or facility at the county seat. The commissioners court may provide for the building or facility through the issuance of bonds or other evidences of indebtedness as provided under Section 292.002 and may provide office space in the building or facility for any county or precinct office.

(c) The auxiliary court facility may be used for the holding of court proceedings, including district court proceedings. For the purpose of the court proceedings, the commissioners court may designate the location of the auxiliary court as an auxiliary county seat.

(d) The records of a county officer who is provided space at a court facility, building, or other facility under this section may be kept at the building or facility.

Added by Acts 2015, 84th Leg., R.S., Ch. 607 (S.B. 643), Sec. 3, eff. June 16, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 162, eff. September 1, 2023.

CHAPTER 293. COUNTY BUILDING AUTHORITY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 293.001. SHORT TITLE. This chapter may be cited as the County Building Authority Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.002. DEFINITIONS. In this chapter:

(1) "Authority" means a county building authority created under this chapter.

(2) "Bond resolution" means a resolution of a board authorizing the issuance of bonds.

(3) "Board" means the board of directors of an authority.

(4) "Project" means the property acquired and building constructed by an authority.

(5) "Trust indenture" means an instrument pledging revenue of property or creating a mortgage lien on property to secure bonds issued under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.003. COUNTIES SUBJECT TO CHAPTER. This chapter applies only to a county that:

(1) has a population of more than 600,000; and

(2) owns and uses, together with other structures, a courthouse that is more than 30 years old and that has not been completely renovated or remodeled during the preceding 30 years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.004. COUNTY BUILDING STUDY COMMITTEE. (a) The commissioners court of the county by order shall create a county building study committee if the commissioners court determines that doing so is in the best interest of the county and its residents.

(b) The committee consists of five members, with one appointed by the county judge and one appointed by each county commissioner.

(c) The committee may:

(1) study the need for a new or expanded county building and the possibility of including in the building devices and characteristics to protect life and property in modern warfare;

(2) make preliminary plans and surveys concerning the requirements, costs, and feasibility of the project; and

(3) make recommendations to the commissioners court.

(d) The county may pay the cost of the study, which may not exceed $25,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. CREATION AND OPERATION

Sec. 293.021. ELECTION; COUNTY BUILDING AUTHORITY. (a) After reviewing and considering the recommendations of the county building study committee, the commissioners court may call an election at which the qualified voters of the county are entitled to vote for or against the proposition: the construction, acquisition, improvement, equipping, and furnishing of a county building and the issuance of negotiable revenue bonds to provide funds for this purpose.

(b) If a majority of the qualified voters of the county vote

for the proposition, a county building authority is created.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.022. PURPOSES OF AUTHORITY. The purposes of the authority are to construct, acquire, improve, equip, furnish, maintain, and operate a county building adequate to meet the county's needs. In planning the building, the authority may consider the anticipated population and economic growth of the county and the demands that this growth will create for space for county activities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.023. BOARD OF DIRECTORS. (a) The authority is governed by a board composed of five directors. The county judge appoints one director and each county commissioner appoints one. A county officer or employee is not eligible for appointment as a director.

(b) The term of office of a director expires on December 31 not more than two years after the date that the director's term began. The directors may provide for staggered terms, in which case the directors shall draw lots to determine which directors' terms expire in which year.

(c) If a vacancy occurs in the office of a director by death, resignation, or expiration of a term, the person holding the office of the county officer who originally appointed the vacating director shall appoint a person to fill the vacancy.

(d) The board shall elect one member as president and one member as vice-president. The board shall select a secretary and a treasurer who may or may not be members. The offices of secretary and treasurer may be combined into one office. The board may elect other officers as authorized by the bylaws of the authority.

(e) A majority of the board is a quorum. The board may act by a majority vote of directors present if a quorum is present.

(f) A director may not receive compensation for services on the board but is entitled to reimbursement for expenses incurred in performing the services.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.024. EMPLOYEES. (a) The board may employ:

(1) a manager or executive director of properties;

(2) legal counsel; and

(3) other employees, experts, and agents that the board considers necessary.

(b) The board may delegate to the manager the power to employ and discharge employees.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.025. COMPTROLLER. (a) The county auditor shall appoint a comptroller for the authority, subject to the approval of the board and the commissioners court. The comptroller shall:

(1) work under the direction of the county auditor;

(2) institute budget, purchasing, and fiscal procedures that conform to accepted business and accounting practices; and

(3) make quarterly reports to the commissioners court.

(b) The county auditor shall fix the comptroller's salary, subject to approval of the board and commissioners court, and the authority shall pay the salary.

(c) The comptroller's employment may be terminated by an act of the county auditor and a majority vote of the board and commissioners court.

(d) Before the beginning of each fiscal year the comptroller, under the direction of the board, shall prepare the authority's budget for the following fiscal year and submit it to the commissioners court. Within 15 days after the date the budget is submitted, the commissioners court may approve or revise the budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.026. POWERS OF AUTHORITY. (a) The authority may:

(1) construct, enlarge, furnish, and equip a building to be used primarily as a county courthouse, subject to the approval of the commissioners court;

(2) sue or be sued, implead or be impleaded, and complain or defend in court;

(3) adopt, use, and alter a corporate seal;

(4) make bylaws for the management and regulation of its affairs;

(5) make contracts and execute instruments necessary or convenient for conducting its business;

(6) acquire, purchase, hold, and use land necessary for carrying out its purposes;

(7) lease land or an interest in land from the county for a term of not more than 99 years at nominal rent or annual rent determined by contract with the county;

(8) lease real or personal property or an interest in such property to the county for a term of not more than 99 years at nominal rent or annual rent determined by contract with the county;

(9) lease real or personal property or an interest in such property to a person other than a county for a term of not more than 40 years at an annual rent determined by contract with the person;

(10) borrow money and accept grants from, and enter into contracts, leases, or other transactions with, federal agencies;

(11) invest the proceeds of its bonds, until the money is needed, in direct obligations of or obligations unconditionally guaranteed by the United States government, to the extent authorized in the bond resolution or trust indenture;

(12) fix, alter, charge, and collect rates, rentals, and other charges for services of the authority or use of facilities of the authority or project;

(13) exercise the power of eminent domain to the extent, in the manner, and under the laws applicable to counties, for the purpose of acquiring property needed for a purpose authorized by this chapter; and

(14) do anything necessary or convenient to accomplish the purposes of the authority or carry out a power granted to the authority by statute.

(b) A lease under Subsection (a)(9) may not impair the authority's obligations under the bond resolution or trust indenture. On notice specified in the contract, a lessee under such a lease shall surrender possession of the property to the authority if and to the extent that the county requires use of the property.

(c) The power provided by Subsection (a)(10) is not subject to the limitations relating to other powers granted under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.027. OPERATION OF AUTHORITY. (a) The property of the authority must be held and operated only for governmental and public purposes, for the use and benefit of the public, and without private profit. The property of the authority is exempt from taxation.

(b) The authority shall charge rent, impose charges, and use its sources of revenue to generate revenue sufficient to:

(1) pay the expenses related to ownership, operation, and upkeep of the authority's property;

(2) pay interest on the authority's bonds as it becomes due;

(3) create a sinking fund to pay the authority's bonds as they come due; and

(4) create and maintain a bond reserve fund and other funds as provided in the bond resolution or trust indenture.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.028. DEPOSITORY. The authority may:

(1) select a depository as provided by law for selection of a county depository; or

(2) award a depository contract to the same depository used by the county on the same terms applicable to the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.029. INVESTMENT OF FUNDS. The investment of and security for authority funds is governed, to the extent applicable, by the law governing investment of and security for a county's funds. The bond resolution or trust indenture may provide further restrictions on the investment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.030. LAW AFFECTING CERTAIN CONTRACTS. The board, in connection with a contract for construction or for purchase of

equipment and material that requires expenditure or payment of $2,000 or more, shall comply with Subchapter C, Chapter 262.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.031. UNDERGROUND SHELTER. The authority may include a civil defense shelter in underground facilities constructed under this chapter. In connection with this shelter the authority may:

(1) cooperate with the federal civil defense administrator and state civil defense officers; and

(2) contract as necessary to participate in federal or state assistance in construction and operation of the shelter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.032. POWER OF COUNTY. (a) A county may acquire and sell or lease to the authority land that the commissioners court determines is needed for the project. The sale or lease may be for the consideration that the commissioners court, after considering that the project is for the primary benefit of the county, determines is reasonable.

(b) The county may:

(1) lease property from the authority as is necessary or convenient and as is in the best interest of the county;

(2) pay the authority, at a bank designated by the authority, an annual rent determined by the lease; and

(3) levy a tax sufficient to pay the rent as it comes due.

(c) Without limitation by Subsections (a) and (b), a county may do all things necessary or convenient to accomplish the objectives of this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.033. PROVISION OF FACILITIES BY COUNTY. This chapter does not alter the authority of the commissioners court to provide county facilities that the commissioners court considers necessary for the convenience of the people in populated areas.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.034. TRANSFER OF ASSETS TO COUNTY; DISSOLUTION. On payment of all of its indebtedness, the authority shall convey all of its assets to the county, without cost to the county. On this conveyance, the authority is dissolved.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. FUNDING

Sec. 293.051. REVENUE BONDS. (a) The authority may issue negotiable revenue bonds to provide funds to carry out its purposes.

(b) The bonds must:

(1) be authorized by a board resolution;

(2) be authorized by an election that is:

(A) called by a resolution of the board;

(B) held throughout the authority; and

(C) called, held, and publicized in the manner provided by Chapter 1251, Government Code;

(3) be signed by the board president or vice-president and countersigned by the board secretary, either by actual or printed facsimile signature;

(4) include the authority seal;

(5) mature serially or otherwise in 40 years or less;

(6) be payable from and secured by a pledge of net revenues from ownership or operation of authority property; and

(7) be sold at a price and under terms that the board considers the most advantageous and the most reasonably obtainable.

(c) The bonds may:

(1) be secured, in addition to the security prescribed in Subsection (b)(6), by a mortgage or deed of trust on authority real or personal property;

(2) bear interest at a rate not to exceed the interest rate prescribed by Chapter 1204, Government Code;

(3) be made callable before maturity at the times and prices prescribed in the bond resolution; and

(4) be made registrable as to principal, interest, or both.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 2001, 77th Leg., ch. 1420, Sec. 8.308, eff. Sept. 1, 2001.

Sec. 293.052. JUNIOR LIEN BONDS; PARITY BONDS. (a) The authority may issue bonds constituting a junior lien on net revenues or property of the authority unless prohibited by the bond resolution or trust indenture.

(b) The authority may issue parity bonds under conditions specified in the bond resolution or trust indenture.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.053. EXAMINATION AND APPROVAL. (a) After the authority authorizes bonds, including refunding bonds, it shall submit the bonds and the record relating to their issuance to the attorney general. If the bonds purport to be secured by a pledge of proceeds of an existing lease with the county or another governmental agency, a copy of the lease contract and the proceedings of the governmental authority authorizing the lease shall also be submitted.

(b) The attorney general shall examine the submitted documents and shall approve the bonds and the lease contract, if any, if they are determined to be valid. On approval of the attorney general, the comptroller of public accounts shall register the bonds.

(c) On approval and registration of the bonds under this section, the bonds and the lease contract, if any, are valid, binding, and incontestable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.054. LEGAL AND AUTHORIZED INVESTMENTS. (a) Authority bonds are legal and authorized investments for a bank, savings bank, trust company, savings and loan association, insurance company, fiduciary, trustee, or guardian, or a sinking fund of a municipality, county, school district, or political subdivision of the state.

(b) Authority bonds may secure deposits of public funds of the state, a municipality, a county, a school district, or another political corporation or subdivision of the state. The bonds may provide this security in an amount up to their value, if all unmatured coupons, if any, are attached.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 293.055. REFUNDING BONDS. (a) The authority may issue bonds for the purpose of refunding outstanding bonds. Refunding bonds may be issued in the manner provided by this chapter for the issuance of other bonds, except that an election is not required.

(b) The comptroller may exchange the refunding bonds for the outstanding bonds or the authority may sell the refunding bonds and apply the proceeds according to Subchapter B or C, Chapter 1207, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.309, eff. Sept. 1, 2001.

Sec. 293.056. INITIAL INTEREST. The board may set aside the following money from the proceeds from the sale of bonds:

(1) money necessary to pay interest on the bonds for not more than two years; and

(2) money that the board estimates to be necessary to pay the authority's operating expenses for its first year of operation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBTITLE C. PUBLIC BUILDING PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 301. RECREATIONAL AND CULTURAL FACILITIES JOINTLY ESTABLISHED BY COUNTIES AND MUNICIPALITIES

Sec. 301.001. AUTHORITY TO ESTABLISH RECREATIONAL OR CULTURAL FACILITY. (a) In this chapter, "recreational or cultural facility" means an auditorium, civic center, convention center, or exposition center.

(b) The commissioners court of a county and the governing body of a municipality in that county may jointly erect, acquire, equip, maintain, and operate a recreational or cultural facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 483, Sec. 2, eff. Sept. 1, 1999.

Sec. 301.002. FINANCING OF RECREATIONAL OR CULTURAL FACILITY. The recreational or cultural facility may be financed out of the general revenues of the county and the municipality in proportions that the commissioners court of the county and the governing body of the municipality decide are appropriate.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 483, Sec. 2, eff. Sept. 1, 1999.

Sec. 301.003. DELEGATION OF AUTHORITY TO BOARD OF MANAGERS; DONATIONS. (a) The commissioners court of the county and the governing body of the municipality, by resolution or other proper action, may delegate to a board of managers the authority to acquire land for a recreational or cultural facility by purchase or lease and to erect, maintain, and equip a recreational or cultural facility.

(b) The board, for the benefit of the recreational or cultural facility, may accept gifts and bequests on behalf of the county and municipality and may borrow, receive, exchange, sell, and lend property. If a donor specifies a purpose for a gift or loan, the board shall use the gift or loan for that purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 483, Sec. 2, eff. Sept. 1, 1999.

Sec. 301.004. COMPOSITION AND TERMS OF OFFICE OF BOARD OF MANAGERS. (a) The board of managers must consist of seven members. The commissioners court of the county and the governing body of the municipality shall each appoint three members and shall jointly appoint one member.

(b) The members of the board are appointed for staggered terms of two years with the terms of two members appointed by the commissioners court and two members appointed by the governing body of the municipality expiring on February 1 of each odd-numbered year and the remaining terms expiring on February 1 of each even-numbered year.

(c) When the commissioners court or the governing body of the municipality makes its initial appointments to the board, it shall designate two of the members it appoints for terms expiring on the first February 1 of an odd-numbered year that follows the date of the

appointments. The remaining appointments shall be designated for terms that expire on the first February 1 of an even-numbered year that follows the date of the appointments.

(d) A vacancy on the board shall be filled for the unexpired part of the term in the same manner that the original appointment was made.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 301.005. CHAIRMAN AND OTHER OFFICERS. Each year the board shall elect a chairman. The chairman shall preside over board meetings and shall sign the contracts, agreements, and other instruments made by the board on behalf of the county and the municipality. The board may elect other officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 301.006. AUTHORITY OF BOARD TO CONTRACT. The board may make any contract connected with or incidental to establishing, equipping, maintaining, or operating the recreational or cultural facility and may expend funds set aside by the county and the municipality for purposes connected with operating and maintaining the recreational or cultural facility. However, the board may not bind the county or the municipality to make an expenditure of funds not specifically appropriated by the county or the municipality for the benefit of the recreational or cultural facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 483, Sec. 2, eff. Sept. 1, 1999.

Sec. 301.007. FINANCIAL STATEMENT AND BUDGET. (a) Each year the board shall prepare and present to the commissioners court of the county and the governing body of the municipality a complete financial statement about the condition of the recreational or cultural facility and a proposed budget for the anticipated financial needs of the recreational or cultural facility for the next year.

(b) On the basis of the financial statement and budget, the commissioners court of the county and the governing body of the

municipality may appropriate to the board an amount of money that the commissioners court of the county and the governing body of the municipality consider proper and necessary for the operation of the recreational or cultural facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 483, Sec. 2, eff. Sept. 1, 1999.

Sec. 301.008. PERSONNEL. The board may employ a superintendent or manager of the recreational or cultural facility. The superintendent or manager, with the consent of the board, may employ permanent or temporary personnel that are necessary for the maintenance and operation of the recreational or cultural facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 483, Sec. 2, eff. Sept. 1, 1999.

CHAPTER 302. ENERGY SAVINGS PERFORMANCE CONTRACTS FOR LOCAL GOVERNMENTS

Sec. 302.001. DEFINITIONS. In this chapter:

(1) "Baseline" means a calculation or set of calculations in an energy savings performance contract that:

(A) may be based on:

(i) historical costs, revenues, accuracy, or related components; or

(ii) avoided anticipated costs; and

(B) may be used for determining:

(i) the costs for energy or water usage and related net operating costs;

(ii) the billable revenues from providing energy, water, or other utilities to users; or

(iii) the efficiency or accuracy of metering or related equipment, systems, or processes or procedures.

(2) "Energy or water conservation or usage measures" means:

(A) the installation or implementation of any of the items, equipment, modifications, alterations, improvements, systems, and other measures described by Subdivision (4) that are intended to provide:

(i) estimated energy savings;

(ii) an estimated increase in billable revenues; or

(iii) an estimated increase in meter accuracy; or

(B) the training for, or services related to, the operation of the items, equipment, modifications, alterations, improvements, systems, or other measures described by Paragraph (A).

(3) "Energy savings" means an estimated reduction in net fuel costs, energy costs, water costs, stormwater fees, or other utility costs, or related net operating costs, including costs for anticipated equipment replacement and repair, from or as compared to an established baseline of those costs. The term does not include an estimated reduction due to a decrease in energy rates that is not derived from increased conservation or reduced usage.

(4) "Energy savings performance contract" means a contract with a provider for energy or water conservation or usage measures in which the estimated energy savings, utility cost savings, increase in billable revenues, or increase in meter accuracy resulting from the measures is subject to guarantee to offset the cost of the energy or water conservation or usage measures over a specified period. The term does not include the design or new construction of a water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, or drainage project. The term includes a contract related to the pilot program described by Subdivision (9-a) and a contract for the installation or implementation of the following in new or existing facilities, including all causally connected work:

(A) insulation of a building structure and systems within the building;

(B) storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

(C) automatic energy control systems, including computer software and technical data licenses;

(D) heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;

(E) lighting fixtures that increase energy efficiency;

(F) energy recovery systems;

(G) electric systems improvements;

(H) water-conserving fixtures, appliances, and

equipment or the substitution of non-water-using fixtures, appliances, and equipment;

(I) water-conserving landscape irrigation equipment;

(J) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:

(i) landscape contouring, including the use of berms, swales, and terraces; and

(ii) the use of soil amendments that increase the water-holding capacity of the soil, including compost;

(K) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;

(L) equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;

(M) equipment needed to capture water from nonconventional, alternate sources, including air-conditioning condensate or graywater, for nonpotable uses;

(N) metering or related equipment or systems that improve the accuracy of billable-revenue-generation systems;

(O) alternative fuel programs resulting in energy cost savings and reduced emissions for local government vehicles, including fleet vehicles;

(P) programs resulting in utility cost savings; or

(Q) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

(5) "Guarantee" means a written guarantee of a provider that the energy savings, increase in billable revenues, or increase in meter accuracy from the energy or water conservation or usage measures will at least equal the cost of the energy or water conservation or usage measures, all causally connected work, and ancillary improvements provided for in an energy savings performance contract.

(6) "Increase in billable revenues" means an estimated increase in billable revenues as compared to an established baseline of billable revenues.

(7) "Increase in meter accuracy" means an estimated increase in efficiency or accuracy of metering or related equipment,

systems, or processes or procedures that is calculated or determined by using applicable industry engineering standards.

(8) "Local government" means a county, municipality, or other political subdivision of this state. The term does not include a school district authorized to enter into an energy savings performance contract under Section 44.901, Education Code.

(9) "Meter guarantee" means a guarantee of a stipulated or agreed upon increase in billable revenues to result from the estimated increase in meter accuracy, based on stipulated or agreed upon components of a billable revenue calculation in an energy savings performance contract.

(9-a) "Pilot program" means a pilot program operated by the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station, in consultation with the Texas Facilities Commission and the State Energy Conservation Office, that:

(A) establishes and implements energy efficiency improvements to state-owned buildings maintained by the commission;

(B) generates savings in utility costs resulting from the improvements resulting in at least a 30 percent annual return on the costs of the improvements;

(C) provides for the participation of not fewer than two companies selected by the commission; and

(D) provides for any money attributable to utility cost savings resulting from the pilot program to be appropriated only to the commission.

(10) "Provider" means an entity in the business of designing, implementing, and installing of energy or water conservation or usage measures or an affiliate of such an entity.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997. Amended by Acts 2001, 77th Leg., ch. 573, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 78, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 4, eff. June 16, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 982 (H.B. 1728), Sec. 5, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1021 (H.B. 1184), Sec. 1, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 258 (H.B. 1571), Sec. 4, eff. May

29, 2017.

Acts 2021, 87th Leg., R.S., Ch. 495 (H.B. 3583), Sec. 1, eff. June 14, 2021.

Sec. 302.002. ENERGY SAVINGS PERFORMANCE CONTRACTS. (a) The governing body of a local government may enter into an energy savings performance contract in accordance with this chapter.

(b) Each energy or water conservation or usage measure must comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding Section 302.001, an energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which public water supply system officials do not have sanitary control to be returned to the potable water supply.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997. Amended by Acts 2001, 77th Leg., ch. 573, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1319, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 79, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 5, eff. June 16, 2007.

Sec. 302.003. PAYMENT AND PERFORMANCE BOND. Notwithstanding any other law, before entering into an energy savings performance contract, the governing body of the local government shall require the provider of the energy or water conservation or usage measures to file with the governing body a payment and performance bond relating to the installation of the measures in accordance with Chapter 2253, Government Code. The governing body may also require a separate bond to cover the value of the guarantee.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997. Amended by Acts 2001, 77th Leg., ch. 573, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1319, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 80, 121(23), eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 6, eff. June

16, 2007.

Sec. 302.004. METHOD OF FINANCING; TERMS OF CONTRACT. (a) An energy savings performance contract may be financed:

(1) under a lease-purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing;

(2) with the proceeds of bonds; or

(3) under a contract with the provider of the energy or water conservation or usage measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures.

(a-1) Notwithstanding other law, the governing body of a local government may use any available money to pay the provider of the energy or water conservation measures under this section, and the governing body is not required to pay for such costs solely out of the savings realized by the local government under an energy savings performance contract. The governing body may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(b) An energy savings performance contract shall contain provisions requiring the provider of the energy or water conservation or usage measures to provide a guarantee. If the term of the contract exceeds one year, the local government's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy and water savings, the net operating cost savings, and the stipulated or agreed upon increase in billable revenues resulting from the estimated increase in meter accuracy, divided by the number of years in the contract term.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997. Amended by Acts 1999, 76th Leg., ch. 361, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 573, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1319, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 81, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 7, eff. June 16, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 982 (H.B. 1728), Sec. 6, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 258 (H.B. 1571), Sec. 5, eff. May 29, 2017.

Sec. 302.005. BIDDING PROCEDURES; AWARD OF CONTRACT. (a) An energy savings performance contract under this chapter may be let in accordance with the procedures established for procuring certain professional services by Section 2254.004, Government Code. Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

(b) Before entering into an energy savings performance contract, the governing body must require that the energy savings, increase in billable revenues, or increase in meter accuracy estimated or projected by a provider be reviewed by a licensed professional engineer who:

(1) has a minimum of three years of experience in energy calculation and review;

(2) is not an officer or employee of a provider for the contract under review; and

(3) is not otherwise associated with the contract.

(c) In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Sections 1001.053 and 1001.407, Occupations Code, apply to work performed under the contract.

(d) The scope of an energy savings performance contract may not be modified under this section by change order, contract addendum, or other method:

(1) to perform work that is not related to, connected with, or otherwise ancillary to the measures identified in the original scope of an energy savings performance contract; or

(2) in a way that increases the price of the original awarded contract by more than 25 percent of the original contract value.

(e) Subsection (d) applies only to the design or construction of a water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, or drainage project.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997. Amended by Acts 2001, 77th Leg., ch. 573, Sec. 12, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1319, Sec. 7; Acts 2003, 78th Leg., ch. 1276, Sec. 12.005, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 82, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 8, eff. June 16, 2007.

Acts 2021, 87th Leg., R.S., Ch. 495 (H.B. 3583), Sec. 2, eff. June 14, 2021.

Sec. 302.006. METER GUARANTEES. (a) This section applies to any energy savings performance contract that:

(1) provides for any metering or related equipment, system, or process or procedure; and

(2) includes a meter guarantee by the provider, regardless of whether the meter guarantee is a part of a broader guarantee applicable to other energy or water conservation or usage measures or causally connected work.

(b) Not later than the fifth anniversary of the effective date of an energy savings performance contract, an engineer shall test a statistically relevant sample of the meters installed or implemented under the contract to determine or calculate the actual average accuracy and shall compare the actual average accuracy to the baseline average accuracy of those tested meters.

(c) A meter guarantee applies if the engineer reports to the local government and the provider that the average accuracy of the tested meters as of the testing date is less than the baseline average accuracy of the tested meters as of the testing date.

(d) The amount payable under the meter guarantee must be determined for each year subject to the engineer's report and is equal to the difference between:

(1) the agreed increase in billable revenues based on the estimated accuracy of all of the meters for each year, according to the energy savings performance contract; and

(2) the revenues for the same year that would result from applying the engineer's reported actual average accuracy of the tested meters to all of the meters subject to the energy savings performance contract, using the same contract components that were used to calculate the agreed increase in billable revenues for that year, assuming the annual decrease in actual average accuracy of all the meters was a pro rata percentage of the reported total decrease in actual average accuracy.

(e) Notwithstanding Subsection (d), if the meter guarantee in the contract is part of a broader guarantee applicable to other energy or water conservation or usage measures or causally connected work under the contract, the amount payable under the meter guarantee for any year during the measurement period is reduced or offset by the difference between:

(1) the sum of the energy savings and the increase in billable revenues resulting from the other energy or water conservation or usage measures or causally connected work for that year during the measurement period; and

(2) the guaranteed amount of the energy savings and the increase in billable revenues from the other energy or water conservation or usage measures or causally connected work for that year during the measurement period.

(f) A test conducted under this section must be performed in accordance with the procedures established by the International Performance Measurement and Verification Protocol or succeeding standards of the United States Department of Energy.

(g) An engineer conducting a test under this section shall:

(1) verify that the tested meters have been properly maintained and are operating properly; and

(2) comply with Section 302.005(c).

Added by Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 9, eff. June 16, 2007.

Sec. 302.007. EXEMPTION FROM OTHER CONTRACTING LAW. Chapter 2269, Government Code, does not apply to this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 3.04, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(25), eff. September 1, 2013.

Sec. 302.008. ENFORCEMENT. (a) A contract entered into or an arrangement made in violation of this chapter is voidable as against public policy.
(b) This chapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date the contract is awarded.

Added by Acts 2021, 87th Leg., R.S., Ch. 495 (H.B. 3583), Sec. 3, eff. June 14, 2021.

CHAPTER 303. PUBLIC FACILITY CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 303.001. SHORT TITLE. This chapter may be cited as the Public Facility Corporation Act.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.002. PURPOSE; CONSTRUCTION. (a) The purpose of this chapter is to authorize the creation and use of public facility corporations with the broadest possible powers to finance or to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, and placement in service of public facilities in an orderly, planned manner and at the lowest possible borrowing costs.
(b) The legislature intends that a corporation created under this chapter be a public corporation, constituted authority, and instrumentality authorized to issue bonds on behalf of its sponsor for the purposes of Section 103, Internal Revenue Code of 1986 (26 U.S.C. Section 103). This chapter and the rules and rulings issued under this chapter shall be construed according to this intent.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.003. DEFINITIONS. In this chapter:

(1) "Board of directors" means the board of directors of a corporation.

(2) "Bonds" includes notes, interim certificates, or other evidences of indebtedness of a corporation issued or incurred under this chapter.

(3) "Corporation" means a public facility corporation created and existing under this chapter.

(4) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase bonds or sponsor obligations, purchase or sale agreement, interest rate or commodities price swap agreement, cap or collar agreement, protection or management agreement, or commitment or other contract or agreement authorized and approved by the board of directors of a corporation in anticipation of, related to, or in connection with the authorization, issuance, incurrence, sale, security, exchange, payment, purchase, remarketing, or redemption of bonds or interest on bonds.

(5) "Director" means a member of a board of directors.

(6) "Housing authority" means a public corporation created under Chapter 392.

(7) "Public facility" means any real, personal, or mixed property, or an interest in property devoted or to be devoted to public use, and authorized to be financed, refinanced, or provided by sponsor obligations or bonds issued under this chapter.

(8) "Resolution" means a resolution, order, ordinance, or other official action by the governing body of a sponsor.

(9) "School district" means a political subdivision created under Section 3, Article VII, Texas Constitution.

(10) "Special district" means:

(A) a district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution;

(B) a hospital district or authority; or

(C) a junior college district authorized by Chapter 130, Education Code.

(11) "Sponsor" means a municipality, county, school district, housing authority, or special district that causes a

corporation to be created to act in accordance with this chapter.

(12) "Sponsor obligation" means an evidence of indebtedness or obligation that a sponsor issues or incurs to finance, refinance, or provide a public facility, including bonds, notes, warrants, certificates of obligation, leases, and contracts authorized by Section 303.041 and Subchapter C.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 488 (H.B. 2679), Sec. 1, eff. June 16, 2015.

Acts 2015, 84th Leg., R.S., Ch. 488 (H.B. 2679), Sec. 2, eff. June 16, 2015.

Sec. 303.004. ADOPTION OF ALTERNATE PROCEDURE IN CASE OF CONSTITUTIONAL VIOLATION. If a court holds that a procedure under this chapter violates the federal or state constitution, a corporation or its sponsor by resolution may provide an alternate procedure that conforms to the constitution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.005. EFFECT OF CHAPTER ON OTHER LAW. (a) This chapter does not limit the police power provided by law to this state or a municipality or other political subdivision of this state, or an official or agency of this state or of a municipality or other political subdivision of this state, over property of a corporation.

(b) A sponsor or corporation may use other law not in conflict with this chapter to the extent convenient or necessary to carry out a power expressly or impliedly granted by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.006. LIMITATION OF CHAPTER. This chapter does not authorize a sponsor to issue a sponsor obligation, use a letter of credit, or mortgage a public facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.007. NATURAL GAS AS PUBLIC FACILITY. Natural gas purchased by a corporation for resale to a local government under an interlocal cooperation contract described by Section 791.025, Government Code, between the sponsor and the local government is considered a public facility for the purposes of this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 767 (S.B. 1063), Sec. 1, eff. June 14, 2013.

SUBCHAPTER B. CREATION AND OPERATION OF PUBLIC FACILITY CORPORATION

Sec. 303.021. AUTHORITY TO CREATE. (a) A sponsor may create one or more nonmember, nonstock, nonprofit public facility corporations to:

(1) issue bonds under this chapter, including bonds to purchase sponsor obligations;

(2) finance public facilities on behalf of its sponsor; or

(3) loan the proceeds of the obligations to other entities to accomplish the purposes of the sponsor.

(b) A sponsor may use the corporation to:

(1) acquire, construct, rehabilitate, renovate, repair, equip, furnish, or place in service public facilities; or

(2) issue bonds on the sponsor's behalf to finance the costs of the public facilities.

(c) A corporation created under this chapter must remain a public facility corporation under this chapter.

(d) A corporation or a sponsor may finance, own, or operate a multifamily residential development only if:

(1) the corporation or sponsor complies with all applicable provisions of this chapter; and

(2) the development is located:

(A) inside the area of operation of the sponsor, if the sponsor is a housing authority; or

(B) if the sponsor is not a housing authority, inside the boundaries of the sponsor, without regard to whether the sponsor is authorized to own property or provide services outside the boundaries of the sponsor.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 488 (H.B. 2679), Sec. 3, eff. June 16, 2015.
Acts 2021, 87th Leg., R.S., Ch. 526 (S.B. 1942), Sec. 1, eff. June 14, 2021.
Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 1, eff. June 18, 2023.

Sec. 303.022. CREATION UNDER OTHER LAW. A nonprofit corporation created by a housing authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), regardless of the date the corporation is created, is considered a corporation under this chapter, has the rights and powers necessary or convenient to accomplish a corporation's purposes under this chapter, and is subject to the requirements of this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 526 (S.B. 1942), Sec. 2, eff. June 14, 2021.

Sec. 303.023. PROCEDURE. A governing body of a sponsor that determines that it is in the public interest and to the benefit of the sponsor's residents and the citizens of this state that a corporation be created to finance, refinance, or provide the costs of public facilities of the sponsor may by resolution stating that determination:

(1) authorize and approve the creation of a corporation to act on behalf of the sponsor; and

(2) approve proposed articles of incorporation for the corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.024. ARTICLES OF INCORPORATION. (a) The articles of incorporation of the corporation must include:

(1) the corporation's name;

(2) a statement that the corporation is a nonprofit public corporation;

(3) the duration of the corporation, which may be perpetual;

(4) a statement that the purpose of the corporation is to assist its sponsor in financing, refinancing, or providing public facilities;

(5) a statement that the corporation has no members and is a nonstock corporation;

(6) the street address of the corporation's initial registered office and the name of its initial registered agent at that address;

(7) the number of directors on the initial board of directors and those directors' names and addresses;

(8) each incorporator's name and street address;

(9) the sponsor's name and address; and

(10) a statement that the sponsor has specifically authorized the corporation to act on its behalf to further the public purpose set forth in the articles of incorporation and has approved the articles of incorporation.

(b) The corporate powers listed in this chapter are not required to be included in the articles of incorporation.

(c) The articles of incorporation may include provisions for the regulation of the internal affairs of the corporation, including a provision required or permitted by this chapter to be in the bylaws.

(d) Unless the articles of incorporation provide that a change in the number of directors may be made only by amendment to those articles, a change may be made by amendment to the bylaws.

(e) A provision of the articles of incorporation that requires the vote or concurrence of a greater proportion of the board of directors than this chapter controls over this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.025. CERTIFICATE OF INCORPORATION; BEGINNING OF CORPORATE EXISTENCE. (a) The incorporators shall deliver to the secretary of state the original and two copies of the articles of incorporation and a certified copy of the resolution of the sponsor's

governing body approving the articles of incorporation.

(b) If the secretary of state finds that the articles of incorporation comply with this chapter and have been approved by the sponsor's governing body, the secretary of state, on payment of the fees required by this chapter, shall:

(1) write "filed" on the original and each copy of the articles of incorporation and the month, day, and year of the filing;

(2) file the original in the office of the secretary of state; and

(3) issue two certificates of incorporation with a copy of the articles of incorporation attached to each.

(c) The secretary of state shall deliver a certificate of incorporation, with a copy of the articles of incorporation attached, to the incorporators or their representatives and to the sponsor's governing body.

(d) The corporation's existence begins on issuance of the certificate of incorporation.

(e) The certificate of incorporation is conclusive evidence that all conditions precedent required to be performed by the incorporators and by the sponsor have been performed and that the corporation has been incorporated under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.026. ORGANIZATIONAL MEETING. (a) After issuance of the certificate of incorporation and at the call of a majority of the incorporators, the board of directors named in the articles of incorporation shall hold an organizational meeting in this state to adopt bylaws, to elect officers, and for any other purpose.

(b) Not later than the sixth day before the date of the meeting, the incorporators shall mail, postage prepaid, notice to each director of the time and place of the meeting.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.027. AMENDMENT OF ARTICLES OF INCORPORATION. (a) Articles of incorporation may be amended to contain a provision that is lawful under this chapter if the sponsor's governing body by appropriate resolution determines that the amendment is advisable and

authorizes or directs that an amendment be made.

(b) The corporation's president or vice president and the secretary or clerk of the sponsor's governing body shall execute articles of amendment on behalf of the corporation. An officer signing the articles of amendment shall verify those articles.

(c) The articles of amendment must include:

(1) the name of the corporation;

(2) if the amendment alters a provision of the original or amended articles of incorporation, an identification by reference or description of the altered provision and a statement of its text as amended;

(3) if the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of each provision;

(4) the name and address of the sponsor;

(5) a statement that the amendment was authorized by the sponsor's governing body; and

(6) the date of the meeting at which the governing body adopted or approved the amendment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.028. CERTIFICATE OF AMENDMENT. (a) The original and two copies of the articles of amendment and a certified copy of the resolution of the sponsor's governing body authorizing the articles shall be delivered to the secretary of state.

(b) If the secretary of state finds that the articles of amendment comply with this chapter and are authorized by the sponsor's governing body, the secretary of state, on payment of the fees required by this chapter, shall:

(1) write "filed" on the original and on each copy of the articles of amendment and the month, day, and year of the filing;

(2) file the original in the office of the secretary of state; and

(3) issue two certificates of amendment with a copy of the articles of amendment attached to each.

(c) The secretary of state shall deliver to the corporation or its representative and to the sponsor's governing body a certificate of amendment with a copy of the articles of amendment attached.

(d) The amendment to the articles of incorporation takes effect on issuance of the certificate of amendment.

(e) An amendment does not affect an existing cause of action in favor of or against the corporation, a pending suit to which the corporation is a party, or an existing right of a person. Change of the corporate name by amendment does not abate a suit brought by or against the corporation under its former name.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.029. RESTATED ARTICLES OF INCORPORATION. (a) A corporation may authorize, execute, and file restated articles of incorporation by following the procedure to amend articles of incorporation, including obtaining authorization from the sponsor's governing body.

(b) The restated articles of incorporation must restate the entire text of the articles of incorporation as amended or supplemented by all previous certificates of amendment. The restated articles of incorporation may also contain further amendments to the articles of incorporation.

(c) Unless the restated articles of incorporation include amendments that were not previously in the articles of incorporation and previous certificates of amendment, the introductory paragraph of the restated articles of incorporation must contain a statement that the instrument accurately copies the articles of incorporation and all amendments that are in effect on the date of filing without further changes, except that:

(1) the number of directors then constituting the board of directors and those directors' names and addresses may be inserted in place of the similar information concerning the initial board of directors; and

(2) the incorporators' names and addresses may be omitted.

(d) If the restated articles of incorporation contain further amendments not included in the articles of incorporation and previous certificates of amendment, the instrument containing the restated articles of incorporation must:

(1) include for each further amendment a statement that the amendment has been made in conformity with this chapter;

(2) include the statements required by this chapter to be

contained in articles of amendment, except that the full text of the amendment need not be included except in the restated articles of incorporation;

(3) contain a statement that the instrument accurately copies the articles of incorporation and all previous amendments in effect on the date of the filing, as further amended by the restated articles of incorporation, and that the instrument does not contain any other change, except that:

(A) the number of directors then constituting the board of directors and those directors' names and addresses may be inserted in place of the similar information concerning the initial board of directors; and

(B) the incorporators' names and addresses may be omitted; and

(4) restate the entire text of the articles of incorporation as amended and supplemented by all previous certificates of amendment and as further amended by the restated articles of incorporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.030. RESTATED CERTIFICATE OF INCORPORATION. (a) The original and two copies of the restated articles of incorporation and a certified copy of the resolution of the sponsor's governing body authorizing the articles shall be delivered to the secretary of state.

(b) If the secretary of state finds that the restated articles of incorporation comply with this chapter and have been authorized by the sponsor's governing body, the secretary of state, on payment of the fees required by this chapter, shall:

(1) write "filed" on the original and each copy of the restated articles of incorporation and the month, day, and year of the filing;

(2) file the original in the office of the secretary of state; and

(3) issue two restated certificates of incorporation with a copy of the restated articles of incorporation attached to each.

(c) The secretary of state shall deliver a restated certificate of incorporation, with a copy of the restated articles of

incorporation attached, to the corporation or its representative and to the sponsor's governing body.

(d) On the issuance by the secretary of state of the restated certificate of incorporation, the original articles of incorporation and all amendments are superseded, and the restated articles of incorporation become the corporation's articles of incorporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.031. REGISTERED OFFICE AND AGENT. (a) A corporation shall continuously maintain a registered office and registered agent in this state.

(b) The registered office shall be the same as the corporation's principal office. The registered agent may be:

(1) an individual resident of this state whose business office is the same as the registered office; or

(2) a domestic or foreign profit or nonprofit corporation that is authorized to transact business or conduct affairs in this state and that has a principal or business office that is the same as the registered office.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.032. CHANGE OF REGISTERED OFFICE OR AGENT. (a) A corporation may change its registered office, registered agent, or both by filing the original and a copy of a statement in the office of the secretary of state. The president or vice president of the corporation shall execute and verify the statement.

(b) The statement must include:

(1) the corporation's name;

(2) the post office address of the corporation's current registered office;

(3) if the registered office is to be changed, the post office address of the corporation's new registered office;

(4) the name of the corporation's registered agent;

(5) if the registered agent is to be changed, the name of the successor registered agent;

(6) a statement that, after the change, the post office address of the registered office will be the same as the post office

address of the business office of the registered agent; and

(7) a statement that the change was authorized by the board of directors or by a corporate officer authorized by the board of directors to make the change.

(c) If the secretary of state finds that the statement complies with this chapter, the secretary of state, when all fees have been paid as required by this chapter, shall:

(1) write "filed" on the original and each copy of the statement and the month, day, and year of the filing;

(2) file the original statement in the office of the secretary of state; and

(3) return the copy of the statement to the corporation or its representative.

(d) The change made by the statement takes effect on the filing of the statement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.033. RESIGNATION OF REGISTERED AGENT. (a) A registered agent of a corporation may resign by:

(1) mailing or delivering written notice to the corporation; and

(2) filing the original and two copies of the notice in the office of the secretary of state not later than the 10th day after the date the notice is mailed or delivered to the corporation.

(b) The notice must include:

(1) the corporation's last known address;

(2) a statement that written notice was given to the corporation; and

(3) the date the written notice was given to the corporation.

(c) If the secretary of state finds that the notice complies with this chapter, the secretary of state, on payment of all fees required by this chapter, shall:

(1) write "filed" on the original notice and both copies and the month, day, and year of the filing;

(2) file the original notice in the office of the secretary of state;

(3) return one copy of the notice to the resigning

registered agent; and

(4) deliver one copy of the notice to the corporation at the address shown in the notice.

(d) The resignation takes effect on the 31st day after the date the notice is received by the secretary of state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.034. AGENTS FOR SERVICE. (a) The president, each vice president, and the registered agent of a corporation are the corporation's agents on whom a process, notice, or demand required or permitted by law to be served on the corporation may be served.

(b) If a corporation does not appoint or maintain a registered agent in this state or if the registered agent cannot with reasonable diligence be found at the registered office, the secretary of state is an agent of the corporation on whom a process, notice, or demand may be served.

(c) The secretary of state may be served by delivering two copies of the process, notice, or demand to the secretary of state, the deputy secretary of state, or a clerk in charge of the corporation department of the secretary of state's office. The secretary of state shall immediately forward one copy of the process, notice, or demand by registered mail to the corporation at its registered office.

(d) Service on the secretary of state is returnable not earlier than the 30th day after the date of service.

(e) The secretary of state shall keep a record of each process, notice, and demand served, including the time of the service and the action of the secretary of state in reference to the process, notice, or demand.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 41 (H.B. 297), Sec. 3, eff. September 1, 2005.

Sec. 303.035. BOARD. (a) A corporation's affairs are governed by a board of directors composed of at least three individuals appointed by the sponsor's governing body. Directors may be divided

into classes.

(b) A director serves for a term of not more than six years. The terms of directors of different classes may be of different lengths.

(c) A director holds office for the term to which the director is appointed and until a successor is appointed and has qualified.

(d) The sponsor's governing body may remove a director for cause or at any time without cause.

(e) A director serves without compensation but is entitled to reimbursement for actual expenses incurred in the performance of duties under this chapter.

(f) A director has the same immunity from liability as is granted under the laws of this state to a member of the sponsor's governing body if the director was acting in good faith and in the course and scope of the duties or functions within the corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.103(a), eff. Sept. 1, 2001.

Sec. 303.036. OFFICERS. (a) The officers of a corporation are:

(1) the president, vice president, and secretary; and

(2) other officers, including a treasurer, and assistant officers considered necessary.

(b) An officer is elected or appointed at the time, in the manner, and for the term provided by the articles of incorporation or bylaws, except that an officer's term may not exceed three years. If the articles of incorporation or bylaws do not contain those requirements, the board of directors shall elect or appoint each officer annually.

(c) A person may simultaneously hold more than one office, except that the same person may not simultaneously hold the offices of president and secretary.

(d) An officer may be removed by the persons authorized to elect or appoint the officer if those persons believe the best interests of the corporation will be served by the removal.

(e) A director who is a member of the governing body or an officer or employee of the sponsor is eligible to serve as an officer

of the corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.037. INDEMNIFICATION. (a) Except as provided by Subsection (c), a corporation may indemnify a director, officer, employee, or agent or former director, officer, employee, or agent for expenses and costs, including attorney's fees, actually or necessarily incurred by the person in connection with a claim asserted against the person, by action in court or another forum, because of the person's being or having been a director, officer, employee, or agent.

(b) Except as provided by Subsection (c), if a corporation has not fully indemnified a director, officer, employee, or agent of the corporation under Subsection (a), the court in a proceeding in which a claim is asserted against the director, officer, employee, or agent of the corporation or a court having jurisdiction over an action brought by the director, officer, employee, or agent on a claim for indemnity may assess indemnity against the corporation or its receiver or trustee. The assessment must equal:

(1) the amount that the director, officer, employee, or agent paid to satisfy the judgment or compromise the claim, not including any amount paid the corporation; and

(2) to the extent the court considers reasonable and equitable, the expenses and costs, including attorney's fees, actually and necessarily incurred by the director, officer, employee, or agent in connection with the claim.

(c) A corporation may not provide indemnity in a matter if the director, officer, employee, or agent is guilty of negligence or misconduct in relation to the matter. A court may not assess indemnity unless it finds that the director, officer, employee, or agent was not guilty of negligence or misconduct in relation to the matter in which indemnity is sought.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.038. BYLAWS. (a) The board of directors shall adopt a corporation's initial bylaws and may amend or repeal the bylaws or adopt new bylaws. The bylaws and each amendment and repeal of the

bylaws must be approved by the sponsor's governing body by resolution.

(b) The bylaws may contain any provision for the regulation and management of the corporation's affairs consistent with law and the articles of incorporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.039. COMMITTEES. (a) If permitted by the articles of incorporation or bylaws, the board of directors, by resolution adopted by a majority of directors in office, may designate one or more committees consisting of two or more directors to exercise the board's authority in the management of the corporation to the extent provided by the resolution, articles of incorporation, or bylaws. The designation of a committee or delegation of authority to a committee does not relieve the board of directors or an individual director of a responsibility imposed by law.

(b) Other committees not exercising the authority of the board of directors in the management of the corporation may be designated. The composition of those committees may be limited to directors, and the committee members shall be designated and appointed by:

(1) the board of directors by resolution; or

(2) the president, if authorized by the articles of incorporation, the bylaws, or a resolution of the board of directors.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.040. MEETINGS; QUORUM. (a) A regular or special meeting of the board of directors must be called and held as provided by the bylaws. A regular or special meeting may be held at any location in this state.

(b) A director's attendance at a meeting waives notice to the director of the meeting, unless the attendance is for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(c) A quorum is the lesser of:

(1) a majority of the number of directors established by the bylaws or, if the bylaws do not establish a number of directors, a majority of the number of directors stated in the articles of

incorporation; or

(2) the number of directors, not less than three, established as a quorum by the articles of incorporation or bylaws.

(d) The act of a majority of the directors present at a meeting at which a quorum is present is an act of the board of directors, unless the act of a larger number is required by the articles of incorporation or bylaws.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.041. CORPORATION'S GENERAL POWERS. (a) Subject to Section 303.045, a corporation has the rights and powers necessary or convenient to accomplish the corporation's purposes, including the power to:

(1) acquire title to a public facility in order to lease, convey, or dispose of the public facility to the corporation's sponsor or, on direction of the sponsor and in furtherance of the sponsor's purposes, to another entity;

(2) accept or grant a mortgage or pledge of a public facility financed, refinanced, or provided by the corporation or by sponsor obligations purchased by the corporation and, as security for the payment of any connected bonds or credit agreements that the corporation issues or incurs:

(A) assign the mortgage or pledge and the revenue and receipts from the mortgage or pledge or from the corporation or sponsor obligations; or

(B) grant other security;

(3) sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of the corporation's property and other assets, including sponsor obligations;

(4) make a contract, including a credit agreement, incur a liability, and borrow money at interest;

(5) lend money for its corporate purposes, invest its money, and take and hold security for the payment of money loaned or invested;

(6) sue and be sued in its corporate name;

(7) appoint agents of the corporation and determine their duties;

(8) have a corporate seal and use the seal by having it or a facsimile of it impressed on, affixed to, or reproduced on an instrument required or authorized to be executed by the corporation's proper officers; and

(9) exercise any powers that a nonprofit corporation may exercise, to the extent necessary or convenient to accomplish the purpose of the corporation.

(b) Subsection (a) does not authorize a corporate officer or director to exercise a power specified in that subsection in a manner that is inconsistent with the corporation's articles of incorporation or bylaws or beyond the scope of the corporation's purposes.

(c) A sponsor may not delegate to a corporation the power of taxation or eminent domain, a police power, or an equivalent sovereign power of this state or the sponsor.

(d) The authority granted under Subsection (a)(3) includes the authority to grant a leasehold or other possessory interest in a public facility owned by the corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 488 (H.B. 2679), Sec. 4, eff. June 16, 2015.

Sec. 303.0415. APPLICABILITY OF LAWS RELATING TO CONFLICT OF INTEREST. A member of the board of a corporation or a member of the governing body of a sponsor of a corporation is subject to the same restrictions as a local public official under Chapter 171.

Added by Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 2, eff. June 18, 2023.

Sec. 303.042. TAXATION; EXEMPTION. (a) A public facility, including a leasehold estate in a public facility, that is owned by a corporation and that, except for the purposes and nonprofit nature of the corporation, would be taxable to the corporation under Title 1, Tax Code, shall be assessed to the user of the public facility to the same extent and subject to the same exemptions from taxation as if the user owned the public facility. If there is more than one user of the public facility, the public facility shall be assessed to the

users in proportion to the value of the rights of each user to occupy, operate, manage, or use the public facility.

(b) The user of a public facility is considered the owner of the facility for purposes of the application of:

(1) sales and use taxes in the construction, sale, lease, or rental of the public facility; and

(2) other taxes imposed by this state or a political subdivision of this state.

(c) Subject to Section 303.0421(h), a corporation is engaged exclusively in performance of charitable functions and is exempt from taxation by this state or a municipality or other political subdivision of this state. Bonds issued by a corporation under this chapter, a transfer of the bonds, interest on the bonds, and a profit from the sale or exchange of the bonds are exempt from taxation by this state or a municipality or other political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1493, Sec. 1, eff. Aug. 31, 2002.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 488 (H.B. 2679), Sec. 5, eff. June 16, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 3, eff. June 18, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 6, eff. June 18, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 7, eff. June 18, 2023.

Sec. 303.0421. MULTIFAMILY RESIDENTIAL DEVELOPMENTS OWNED BY PUBLIC FACILITY CORPORATIONS. (a) This section applies to a multifamily residential development that is owned by a corporation created under this chapter, except that this section does not apply to a multifamily residential development that:

(1) has at least 20 percent of its residential units reserved for public housing units;

(2) participates in the Rental Assistance Demonstration program administered by the United States Department of Housing and

Urban Development;

(3) receives financial assistance administered under Chapter 1372, Government Code, or receives financial assistance from another type of tax-exempt bond; or

(4) receives financial assistance administered under Subchapter DD, Chapter 2306, Government Code.

(b) Notwithstanding Section 303.042(c) and subject to Subsections (c) and (d) of this section, an exemption under Section 303.042(c) for a multifamily residential development to which Subsection (a) applies is available only if:

(1) the requirements under Section 303.0425 are met;

(2) at least:

(A) 10 percent of the units in the multifamily residential development are reserved for occupancy as lower income housing units, as defined under Section 303.0425; and

(B) 40 percent of the units in the multifamily residential development are reserved for occupancy as moderate income housing units, as defined under Section 303.0425;

(3) the corporation delivers to the presiding officer of the governing body of each taxing unit in which the development is to be located written notice of the development, at least 30 days before the date:

(A) the corporation takes action to approve a new multifamily residential development or the acquisition of an occupied multifamily residential development; and

(B) of any public hearing required to be held under this section;

(4) if a majority of the members of the board are not elected officials, the development is approved by the governing body of the municipality in which the development is located or, if the development is not located in a municipality, the county in which the development is located;

(5) for an occupied multifamily residential development that is acquired by a corporation and not otherwise subject to a land use restriction agreement under Section 2306.185, Government Code:

(A) not less than 15 percent of the total gross cost of the existing development, as shown in the settlement statement, is expended on rehabilitating, renovating, reconstructing, or repairing the development, with initial expenditures and construction activities:

(i) beginning not later than the first anniversary of the date of the acquisition; and

(ii) finishing not later than the third anniversary of the date of the acquisition; or

(B) at least 25 percent of the units are reserved for occupancy as lower income housing units, as defined under Section 303.0425, and the development is approved by the governing body of the municipality in which the development is located or, if the development is not located in a municipality, the county in which the development is located; and

(6) not less than 30 days before final approval of the development:

(A) the corporation or corporation's sponsor conducts, or obtains from a professional entity that has experience underwriting affordable multifamily residential developments and does not have a financial interest in the applicable development, developer, or public facility user, an underwriting assessment of the proposed development that allows the corporation to make a good faith determination that:

(i) for an occupied multifamily residential development acquired by a corporation, the total annual amount of rent reduction on the income-restricted units provided at the development will be not less than 60 percent of the estimated amount of the annual ad valorem taxes that would be imposed on the property without an exemption under Section 303.042(c) for the second, third, and fourth years after the date of acquisition by the corporation; and

(ii) for a newly constructed multifamily residential development, the development would not be feasible without the participation of the corporation; and

(B) the corporation publishes on its Internet website a copy of the underwriting assessment described by Paragraph (A).

(c) A multifamily residential development that is owned by a corporation created under this chapter by a housing authority and to which Subsection (a) applies must hold a public hearing, at a meeting of the authority's governing body, to approve the development.

(d) Notwithstanding Subsection (b), an occupied multifamily residential development that is acquired by a corporation and to which Subsection (a) applies is eligible for an exemption under Section 303.042(c) for:

(1) the one-year period following the date of the acquisition, regardless of whether the development complies with the requirements of Subsection (b); and

(2) a year following the year described by Subdivision (1) only if the development comes into compliance with the requirements of Subsection (b) not later than the first anniversary of the date of the acquisition.

(e) For the purposes of Subsection (a), a "public housing unit" is a residential unit for which the landlord receives a public housing operating subsidy. It does not include a unit for which payments are made to the landlord under the federal Section 8 Housing Choice Voucher Program.

(f) Notwithstanding Sections 303.042(a) and (b) and except as otherwise provided by this section, during the period that a corporation owns a particular public facility that is a multifamily residential development:

(1) a leasehold or other possessory interest in the real property of the public facility granted by the corporation shall be treated in the same manner as a leasehold or other possessory interest in real property granted by an authority under Section 379B.011(b); and

(2) the materials used by a person granted a possessory interest described by Subdivision (1) to improve the real property of the public facility shall be exempt from all sales and use taxes because the materials are for the benefit of the corporation.

(g) Subsection (f) does not apply to taxes imposed on a multifamily residential development by a conservation and reclamation district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, that provides water, sewer, or drainage services to the development, unless the applicable corporation has entered into a written agreement with the district to make a payment to the district in lieu of taxation, in the amount specified in the agreement.

(h) Subject to Subsection (i), an exemption under Section 303.042(c) for a multifamily residential development to which Subsection (a) applies expires:

(1) for an occupied multifamily residential development that is acquired by a corporation, on the 30th anniversary of the date of the acquisition by the corporation; and

(2) for a multifamily residential development not described

by Subdivision (1), on the 60th anniversary of the date the development receives, from the corporation or the corporation's sponsor, the final approval under this chapter that is necessary to obtain the exemption.

(i) An exemption under Section 303.042(c) for a multifamily residential development to which Subsection (a) applies may be extended for the same term of years applicable to the length of the development's exemption under Subsection (h) if:

(1) in the five-year period preceding the expiration of the exemption under Subsection (h), the corporation provides notice of the extension to the governing body of the municipality in which the development is located or, if the development is not located in a municipality, the county in which the development is located;

(2) the extension is approved in the same manner as was required for the preceding approval of the exemption; and

(3) the development is in compliance with, and maintains compliance with, this section and Section 303.0425.

Added by Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 4, eff. June 18, 2023.
Added by Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 5, eff. June 18, 2023.
Added by Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 7, eff. June 18, 2023.

Sec. 303.0425. ADDITIONAL REQUIREMENTS FOR BENEFICIAL TAX TREATMENT RELATING TO CERTAIN PUBLIC FACILITIES. (a) In this section:

(1) "Developer" means a private entity that constructs a development, including the rehabilitation, renovation, reconstruction, or repair of a development.

(2) "Housing choice voucher program" means the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

(3) "Lower income housing unit" means a residential unit reserved for occupancy by an individual or family earning not more than 60 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development.

(4) "Moderate income housing unit" means a residential unit reserved for occupancy by an individual or family earning not more than 80 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development.

(5) "Public facility user" means a public-private partnership entity or a developer or other private entity that has an ownership interest or a leasehold or other possessory interest in a public facility that is a multifamily residential development.

(b) The percentage of lower and moderate income housing units reserved in each category of units in the development, based on the number of bedrooms per unit, must be the same as the percentage of each category of housing units reserved in the development as a whole.

(c) The monthly rent charged per unit may not exceed:

(1) for a lower income housing unit, 30 percent of 60 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development; or

(2) for a moderate income housing unit, 30 percent of 80 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development.

(d) In calculating the income of an individual or family for a lower or moderate income housing unit, the public facility user must use the definition of annual income described in 24 C.F.R. Section 5.609, as implemented by the United States Department of Housing and Urban Development. If the income of a tenant exceeds an applicable limit at the time of the renewal of a lease agreement for a residential unit, the provisions of Section 42(g)(2)(D), Internal Revenue Code of 1986, apply in determining whether the unit may still qualify as a lower or moderate income housing unit.

(e) The public facility user may not:

(1) refuse to rent a residential unit to an individual or family because the individual or family participates in the housing choice voucher program; or

(2) use a financial or minimum income standard that requires an individual or family participating in the housing choice voucher program to have a monthly income of more than 250 percent of the individual's or family's share of the total monthly rent payable

for a unit.

(f) A public facility user may require an individual or family participating in the housing choice voucher program to pay the difference between the monthly rent for the applicable unit and the amount of the monthly voucher if the amount of the voucher is less than the rent.

(g) A corporation that owns or leases to a public facility user a public facility used as a multifamily residential development shall publish on its Internet website information about the development's:

(1) compliance with the requirements of this section; and

(2) policies regarding tenant participation in the housing choice voucher program.

(h) The public facility user shall:

(1) affirmatively market available residential units directly to individuals and families participating in the housing choice voucher program; and

(2) notify local housing authorities of the multifamily residential development's acceptance of tenants in the housing choice voucher program.

(i) Each lease agreement for a residential unit in a multifamily residential development subject to this section must provide that:

(1) the landlord may not retaliate against the tenant or the tenant's guests by taking an action because the tenant established, attempted to establish, or participated in a tenant organization;

(2) the landlord may only choose to not renew the lease if the tenant:

(A) is in material noncompliance with the lease, including nonpayment of rent;

(B) committed one or more substantial violations of the lease;

(C) failed to provide required information on the income, composition, or eligibility of the tenant's household; or

(D) committed repeated minor violations of the lease that:

(i) disrupt the livability of the property;

(ii) adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related development facilities;

(iii) interfere with the management of the development; or

(iv) have an adverse financial effect on the development, including the failure of the tenant to pay rent in a timely manner; and

(3) to not renew the lease, the landlord must serve a written notice of proposed nonrenewal on the tenant not later than the 30th day before the effective date of nonrenewal.

(j) A tenant may not waive the protections provided by Subsection (i).

(k) Requirements under this subchapter relating to the reservation of income-restricted residential units or income restrictions applicable to tenants of a multifamily residential development subject to this subchapter must be documented in a land use restriction agreement or a similar restrictive instrument that:

(1) ensures that the applicable restrictions are in effect for not less than 10 years; and

(2) is recorded in the real property records of the county in which the development is located.

(l) An agreement or instrument recorded under Subsection (k) may be terminated if the development that is the subject of the agreement or instrument:

(1) is the subject of a foreclosure sale; or

(2) becomes ineligible for an exemption under Section 303.042(c) for a reason other than the failure to comply with restrictions recorded in the agreement or instrument.

Added by Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 8, eff. June 18, 2023.

Sec. 303.0426. AUDIT REQUIREMENTS FOR CERTAIN MULTIFAMILY RESIDENTIAL DEVELOPMENTS. (a) In this section:

(1) "Department" means the Texas Department of Housing and Community Affairs.

(2) "Developer" has the meaning assigned by Section 303.0425.

(3) "Public facility user" has the meaning assigned by Section 303.0425.

(b) A public facility user of a multifamily residential

development claiming an exemption under Section 303.042(c) and to which Section 303.0421 applies must annually submit to the department and the chief appraiser of the appraisal district in which the development is located an audit report for a compliance audit, prepared at the expense of the public facility user and conducted by an independent auditor or compliance expert with an established history of providing similar audits on housing compliance matters, to:

(1) determine whether the public facility user is in compliance with Sections 303.0421 and 303.0425; and

(2) identify the difference in the rent charged for income-restricted residential units and the estimated maximum market rents that could be charged for those units without the rent or income restrictions.

(c) Not later than the 60th day after the date of receipt of the audit conducted under Subsection (b), the department shall examine the audit report and publish a report summarizing the findings of the audit. The report must:

(1) be made available on the department's Internet website;

(2) be issued to a public facility user that has an interest in a development that is the subject of an audit, the comptroller, the applicable corporation, the governing body of the corporation's sponsor, and, if the corporation's sponsor is a housing authority, the elected officials who appointed the housing authority's governing board; and

(3) describe in detail the nature of any failure to comply with the requirements in Sections 303.0421 and 303.0425.

(d) If an audit report submitted under Subsection (b) indicates noncompliance with Sections 303.0421 and 303.0425, a public facility user:

(1) must be given:

(A) written notice from the department or appropriate appraisal district that:

(i) is provided not later than the 45th day after the date a report has been submitted under Subsection (b);

(ii) specifies the reasons for noncompliance;

(iii) contains at least one option for a corrective action to resolve the noncompliance; and

(iv) informs the public facility user that failure to resolve the noncompliance will result in the loss of an exemption

under Section 303.042(c);

(B) 60 days after the date notice is received under this subdivision, to resolve the matter that is the subject of the notice; and

(C) if a matter that is the subject of a notice provided under this subdivision is not resolved to the satisfaction of the department and the appropriate appraisal district during the period provided by Paragraph (B), a second notice that informs the public facility user of the loss of the exemption under Section 303.042(c) due to noncompliance with Sections 303.0421 and 303.0425; and

(2) is considered to be in compliance with Sections 303.0421 and 303.0425 if notice under Subdivision (1)(A) is not provided as specified by Subparagraph (i) of that paragraph.

(e) An exemption under Section 303.042(c) does not apply for a tax year in which a multifamily residential development that is owned by a public facility corporation created under this chapter is determined by the department based on an audit conducted under Subsection (b) to not be in compliance with the requirements of Section 303.0421 or 303.0425.

(f) The initial audit report required by Subsection (b) is due not later than June 1 of the year following the first anniversary of:

(1) the date of acquisition for an occupied multifamily residential development that is acquired by a corporation; or

(2) the date a new multifamily residential development first becomes occupied by one or more tenants.

(g) Subsequent audit reports following the issuance of the initial audit report under Subsection (f) are due not later than June 1 of each year.

(h) An independent auditor or compliance expert may not prepare an audit under Subsection (b) for more than three consecutive years for the same public facility user. After the third consecutive audit, the independent auditor or compliance expert may prepare an audit only after the second anniversary of the preparation of the third consecutive audit.

(i) The department shall adopt forms and reporting standards for the auditing process.

(j) An audit conducted under Subsection (b) is subject to disclosure under Chapter 552, Government Code, except that information containing tenant names, unit numbers, or other tenant

identifying information may be redacted.

Added by Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 8, eff. June 18, 2023.

Sec. 303.043. NET EARNINGS. No part of a corporation's net earnings remaining after payment of its bonds and expenses in accomplishing its public purpose may benefit a person other than the sponsor of the corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.044. OPEN MEETINGS; OPEN RECORDS. A corporation and its board of directors are considered to be governmental bodies under Chapters 551 and 552, Government Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.045. ALTERATION OF CORPORATION OR ACTIVITIES. The sponsor of a corporation, in its sole discretion, may alter the corporation's structure, organization, programs, or activities, consistent with the other provisions of this chapter and subject to limitations provided by law relating to the impairment of contracts entered into by the corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.046. EXAMINATION OF BOOKS AND RECORDS. A representative of the sponsor may examine all books and other records of the corporation at any time.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.047. WAIVER OF NOTICE. If a notice is required to be given to a director by this chapter, the articles of incorporation, or the bylaws, a written waiver of the notice signed by the person

entitled to the notice, before or after the time that would have been stated in the notice, is equivalent to giving the notice.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

SUBCHAPTER C. BONDS

Sec. 303.071. AUTHORITY TO ISSUE. With the specific approval by resolution of the governing body of its sponsor, a corporation may issue or incur bonds, including refunding bonds, to finance, refinance, or provide one or more public facilities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.072. SOURCE OF PAYMENT. (a) Bonds of a corporation are payable from revenue derived from public facilities or sponsor obligations. Bonds issued under this chapter are not an obligation or a pledge of the faith and credit of this state, a sponsor or other political subdivision of this state, or an agency of this state.

(b) Each bond must contain on its face a statement that neither the faith and credit nor the taxing power of this state, the sponsor, except to the extent of the sponsor obligations, or another political subdivision of this state is pledged to the payment of the principal of or the interest on the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.073. TERMS. (a) A bond issued under this chapter must mature not later than 40 years after its date.

(b) Bonds issued under this chapter may be sold in any manner authorized by the corporation and permitted by Chapter 1201, Government Code.

(c) The interest rate on the bonds may be determined by a formula or index or in accordance with a contract or other arrangement for the periodic determination of interest rates.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.074. USE OF PROCEEDS. (a) The proceeds of the bonds of a corporation may be used to:

(1) finance, refinance, or provide one or more public facilities;

(2) maintain reserve funds determined by the sponsor and the corporation to be necessary and appropriate; or

(3) pay any costs relating to the issuance or incurrence of bonds by the corporation and the purchase of sponsor obligations by the corporation, including:

(A) the cost of:

(i) financing charges and interest on the bonds;

(ii) financing, legal, accounting, financial advisory, and appraisal fees, expenses, and disbursements;

(iii) an insurance policy;

(iv) printing, engraving, and reproduction services;

(v) the initial and acceptance fees of a trustee, paying agent, bond registrar, or authenticating agent; and

(vi) a credit agreement; and

(B) reasonable amounts to reimburse the corporation for time spent by its agents or employees with respect to the issuance, incurrence, or purchase.

(b) The purchase by the corporation of a sponsor obligation does not extinguish the debt represented by the sponsor obligation.

(c) Pending a use described by Subsection (a), the proceeds may be invested in accordance with Section 303.041.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.075. REFUNDING OBLIGATIONS. (a) A corporation may issue or incur bonds to refund its outstanding bonds or sponsor obligations of its sponsor, including any redemption premium on them and interest accrued to the date of redemption.

(b) The provisions of this chapter generally applicable to bonds apply to the issuance, maturity, terms, and holder's rights in the refunding bonds and to the corporation's rights, duties, and obligations in relation to the refunding bonds.

(c) The corporation may issue the refunding bonds in exchange or substitution for outstanding bonds or sponsor obligations or may

sell the refunding bonds and use the proceeds to pay or redeem outstanding bonds or sponsor obligations.

(d) A corporation may issue or incur bonds to refund outstanding debt obligations of a nonprofit corporation created by a housing authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.076. APPROVAL OF BONDS BY OTHER ENTITIES. Except as required by Chapter 1202, Government Code, and Section 303.071 a corporation may issue bonds, acquire sponsor obligations, and enter into credit agreements under this chapter without the consent or approval of any other subdivision or agency of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.077. PERFECTION OF SECURITY INTEREST. (a) This section applies only to a security interest granted by:

(1) a corporation as security for its bonds;

(2) a credit agreement pledged as security for the obligations of the corporation on the bonds; or

(3) a credit agreement issued or entered into in connection with the bonds.

(b) Notwithstanding Section 9.109(d), Business & Commerce Code, and without any other filing, a security interest is perfected until payment of the bonds and credit agreement, with the effect specified by Chapter 9, Business & Commerce Code, when the bonds are registered by the comptroller and the proceedings authorizing the bonds are filed with the comptroller.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.104(a), eff. Sept. 1, 2001.

Sec. 303.078. PURCHASE OF SPONSOR OBLIGATIONS. A sponsor may sell its sponsor obligations to a corporation that the sponsor has created at public or private sale on the terms the governing body of

the sponsor determines.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

SUBCHAPTER D. DISSOLUTION OF CORPORATION

Sec. 303.101. DISSOLUTION AUTHORIZED. After a corporation's bonds and other obligations are paid and discharged, or adequate provision is made for their payment and discharge, the sponsor's governing body by written resolution may authorize and direct the dissolution of the corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.102. ARTICLES OF DISSOLUTION. (a) Articles of dissolution on behalf of the corporation must be executed by:

(1) the president or vice president and the secretary or assistant secretary; or

(2) the presiding officer of the sponsor's governing body and the secretary or clerk of that body.

(b) An officer signing the articles of dissolution must verify them.

(c) The articles of dissolution must include:

(1) the name of the corporation;

(2) the name and address of the sponsor;

(3) a statement that the dissolution was authorized by the sponsor's governing body;

(4) the date of the meeting at which the dissolution was authorized;

(5) a statement that all of the corporation's bonds and other obligations have been paid and discharged or that adequate provision has been made for their payment and discharge; and

(6) a statement that no suit is pending in a court against the corporation or that adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against the corporation in each pending suit.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.103. CERTIFICATE OF DISSOLUTION. (a) The original and two copies of the articles of dissolution shall be delivered to the secretary of state.

(b) If the secretary of state finds that the articles of dissolution comply with this chapter and have been authorized by the sponsor's governing body, the secretary of state, on payment of the fees required by this chapter, shall:

(1) write "filed" on the original and each copy of the articles of dissolution and the month, day, and year of the filing;

(2) file the original in the office of the secretary of state; and

(3) issue two certificates of dissolution with a copy of the articles of dissolution attached to each.

(c) The secretary of state shall deliver a certificate of dissolution, with a copy of the articles of dissolution attached, to the representative of the dissolved corporation and to the sponsor's governing body.

(d) The existence of the corporation ceases on the issuance of the certificate of dissolution, except for the purpose of suits, other proceedings, and appropriate corporate action by the directors and officers of the corporation as provided by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.104. EXTENSION OF DURATION. If a corporation is dissolved by expiration of its duration, the corporation may amend its articles of incorporation to extend its duration before the third anniversary of the date of dissolution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.105. VESTING PROPERTY IN SPONSORING ENTITY. The title to all funds and other property owned by a corporation when it dissolves automatically vests in the corporation's sponsor without further conveyance, transfer, or other act.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.106. RIGHTS, CLAIMS, AND LIABILITIES BEFORE DISSOLUTION. (a) The dissolution of a corporation by the expiration of its duration or by the issuance of a certificate of dissolution does not impair a remedy available to or against the corporation or a director or officer of the corporation for a right or claim existing or a liability incurred before the dissolution, if action or other proceeding on the remedy is begun before the third anniversary of the date of the dissolution.

(b) The action may be prosecuted or defended by the corporation in its corporate name.

(c) The directors and officers may take corporate or other action as appropriate to protect the remedy, right, or claim.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

SUBCHAPTER E. ADMINISTRATION BY SECRETARY OF STATE

Sec. 303.121. ADMINISTRATION OF CHAPTER. The secretary of state may act as reasonably necessary to efficiently administer this chapter and to perform the duties imposed by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.122. FEES. (a) The secretary of state shall charge and collect fees for:

(1) filing articles of incorporation and issuing two certificates of incorporation;

(2) filing articles of amendment and issuing two certificates of amendment;

(3) filing a statement of change of address of registered office or change of registered agent or both;

(4) filing restated articles of incorporation and issuing two restated certificates of incorporation; and

(5) filing articles of dissolution.

(b) The fees are in the amounts charged by the secretary of state for the respective filings and issuances under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.123. NOTICE AND APPEAL OF DISAPPROVAL. (a) If the secretary of state does not approve a document required by this chapter to be approved by the secretary of state, the secretary of state, not later than the 10th day after the date the document is delivered to the secretary of state, shall give written notice of the disapproval to the person who delivered the document. The notice must state the reasons for the disapproval.

(b) The person may appeal the disapproval to a district court of Travis County by filing with the clerk of the court a petition including a copy of the disapproved document and a copy of the disapproval notice.

(c) The court shall try the matter de novo and either sustain the secretary of state's action or direct the secretary of state to take action the court considers proper.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

Sec. 303.124. DOCUMENTS AS PRIMA FACIE EVIDENCE. A court, public office, or official body shall receive the following documents as prima facie evidence of the facts, or the existence or nonexistence of the facts, stated in the documents:

(1) a certificate issued by the secretary of state under this chapter;

(2) a copy, certified by the secretary of state, of a document filed in the office of the secretary of state under this chapter; and

(3) a certificate of the secretary of state under the state seal as to the existence or nonexistence of a fact relating to a corporation that would not appear from a document or certificate under Subdivision (1) or (2).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 11, eff. Sept. 1, 1999.

CHAPTER 304. ENERGY AGGREGATION MEASURES FOR LOCAL GOVERNMENTS

Sec. 304.001. AGGREGATION BY POLITICAL SUBDIVISIONS. (a) In this chapter, "political subdivision" means a county, municipality, school district, hospital district, or any other political

subdivision receiving electric service from an entity that has implemented customer choice, as defined in Section 31.002, Utilities Code.

(b) A political subdivision may join with another political subdivision or subdivisions to form a political subdivision corporation or corporations to act as an agent to negotiate the purchase of electricity, or to likewise aid or act on behalf of the political subdivisions for which the corporation is created, with respect to their own electricity use for their respective public facilities.

(c) The articles of incorporation and the bylaws of a political subdivision corporation must be approved by ordinance, resolution, or order adopted by the governing body of each political subdivision for which the corporation is created.

(d) A political subdivision corporation may negotiate on behalf of its incorporating political subdivisions for the purchase of electricity, make contracts for the purchase of electricity, purchase electricity, and take any other action necessary to purchase electricity for use in the public facilities of the political subdivision or subdivisions represented by the political subdivision corporation. In this subsection, "electricity" means electric energy, capacity, energy services, ancillary services, or other electric services for retail or wholesale consumption by the political subdivisions.

(e) A political subdivision corporation may recover the expenses of the political subdivision corporation through the assessment of dues to the incorporating political subdivisions or through an aggregation fee charged per kilowatt hour, or a combination of both.

(f) A political subdivision corporation may appear on behalf of its incorporating political subdivisions before the Public Utility Commission of Texas, the Railroad Commission of Texas, the Texas Commission on Environmental Quality, any other governmental agency or regulatory authority, the Texas Legislature, and the courts.

(g) A political subdivision corporation has the powers of a corporation created and incorporated pursuant to the provisions of the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) and such other powers as specified in Section 39.3545, Utilities Code.

(h) The provisions of the Texas Non-Profit Corporation Act

(Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) relating to powers, standards of conduct, and interests in contracts apply to the directors and officers of a political subdivision corporation.

(i) A member of the board of directors of a political subdivision corporation:

(1) is not a public official by virtue of that position; and

(2) unless otherwise ineligible, may be elected to serve as an official of a political subdivision or be employed by a political subdivision.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 42, eff. Sept. 1, 1999. Renumbered from Sec. 303.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(87), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 201, Sec. 58, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 680, Sec. 2, eff. June 20, 2003.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 986 (S.B. 766), Sec. 33, eff. September 1, 2025.

Sec. 304.002. AGGREGATION BY POLITICAL SUBDIVISION FOR CITIZENS. (a) A political subdivision aggregator may negotiate for the purchase of electricity and energy services on behalf of the citizens of the political subdivision. The citizens must affirmatively request to be included in the aggregation services by the political subdivision aggregator.

(b) A political subdivision may contract with a third party or another aggregator to administer the aggregation of electricity and energy services purchased under Subsection (a).

(c) The political subdivision aggregator may use any mailing from the subdivision to invite participation by its citizens.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 42, eff. Sept. 1, 1999. Renumbered from Sec. 303.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(87), eff. Sept. 1, 2001.

CHAPTER 305. MISCELLANEOUS PUBLIC BUILDING PROVISIONS AFFECTING MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. JOINT CONSTRUCTION AND MAINTENANCE OF BUILDINGS BY

CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 305.001. JOINT CONSTRUCTION AND MAINTENANCE OF BUILDINGS BY CERTAIN COUNTIES AND MUNICIPALITIES. (a) This section applies only to a municipality with 2,000 or more inhabitants that is located more than 10 miles from the county seat of the county in which the municipality is located, and to the county in which the municipality is located.

(b) The county and the municipality may jointly own, construct, equip, enlarge, and maintain a building in the municipality, to be used by the justice of the peace, for county branch offices, for a county library, and for a city hall. The county and the municipality must hold in joint ownership the title to the land on which the building stands.

(c) The cost of construction of the building shall be paid from current income and funds on hand, as provided in the budgets or the tax levies of the county and municipality. Annual expenses for the operation and maintenance of the building shall be budgeted by the county and the municipality.

(d) The county and the municipality shall specify in a contract between them:

(1) the amount or proportionate share of the cost of construction and equipment that each party shall contribute;

(2) the party with authority to award contracts, or the fact that awards are to be made by action of both parties;

(3) the account in which funds contributed under Subdivision (1) shall be deposited; and

(4) the procedure by which disbursements from that account shall be authorized.

(e) The contract may provide for:

(1) the appointment of a committee or board to operate and maintain the building;

(2) the delegation of operation and maintenance responsibility to either of the parties; or

(3) the division of annual operation and maintenance expenses between the parties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. SALE OF COLISEUM OR STADIUM BETWEEN MUNICIPALITY AND

COUNTY

Sec. 305.011. MUNICIPALITY AND COUNTY COVERED BY SUBCHAPTER. This subchapter applies only to:

(1) any municipality; and

(2) a county that has a population of more than one million, has issued bonds for the purpose of constructing a coliseum or stadium within the county, and is operating the coliseum or stadium directly and not through another person under a lease or other agreement not subject to cancellation by the county in the event of a sale of the coliseum or stadium.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 66(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 99, eff. Sept. 1, 1991.

Sec. 305.012. SALE BY COUNTY. The commissioners court of the county may sell to a municipality a coliseum or stadium owned and operated by it and related land and facilities if the court finds that:

(1) the coliseum or stadium is in need of expansion or other improvement; and

(2) the expansion or other improvement may be better accomplished, without resort to the tax funds and resources of the county, by the sale of the coliseum or stadium and related land and facilities to a municipality in which the coliseum or stadium is located.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 66(a), eff. Aug. 28, 1989.

Sec. 305.013. TERMS OF AGREEMENT. The sale agreement shall be on the terms, including the price, on which the county and municipality agree. However, the price may not be less than the amount of the outstanding bonds of the county issued for the purpose of constructing and equipping the coliseum or stadium.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 66(a), eff. Aug. 28, 1989.

Sec. 305.014. PAYMENTS BY MUNICIPALITY. (a) The purchase

price may be paid by the municipality in cash and the funds for the payment may be obtained by the municipality in any manner permitted by law. In the alternative, the purchase price may be paid by the municipality in installments with interest at not lower than the same rates borne by the county's outstanding coliseum or stadium bonds. The funds with which to make the installments may be obtained by the municipality in any lawful manner, including one or more of the methods described by Subsections (b) and (c).

(b) The installments, by the sale agreement, may be made payable to the county out of revenues of the stadium or coliseum on dates coinciding with or earlier than the dates on which principal and interest on the county's outstanding coliseum or stadium bonds mature and come due. If this method of payment is selected, the payments due the county may be treated as a fixed operating expense of the stadium or coliseum payable solely from the revenues of the facilities. When received by the county, the funds shall be used for the purpose of retiring and paying interest on its outstanding coliseum or stadium bonds when due.

(c) The municipality and county may agree that the municipality shall issue a series of coliseum or stadium acquisition revenue bonds (or include such purpose as a part of a larger series of coliseum or stadium revenue bonds), which revenue bonds (or part of a larger series allocable to the purchase) shall be delivered to the county in payment of the purchase price for the stadium or coliseum. The bonds must be at least payable at the times and in the same amounts as and bear not lower than the same rates of interest borne by the county's outstanding coliseum or stadium bonds so as to provide funds from the revenue bonds to the county with which to pay the principal and interest when due on its outstanding bonds. The revenue bonds of the municipality may be on other terms as the municipality and county agree and may include any mortgage security authorized by Subchapter A, Chapter 1504, Government Code. On delivery of the bonds to the county, the county shall hold the bonds for the account of the interest and sinking fund created in connection with its outstanding coliseum or stadium bonds and shall use the payments when received to pay the principal and interest on its bonds when due.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 66(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.310, eff. Sept. 1, 2001.

Sec. 305.015. DELIVERY OF DEED. A sale under this subchapter must be effected by delivery of a deed, with a reservation of any vendor's liens on the facilities as may be appropriate in connection with the selected method for payment of the purchase price, from the county with the approval of the commissioners court and acceptance by the municipality in accordance with the sale agreement.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 66(a), eff. Aug. 28, 1989.

Sec. 305.016. MUNICIPAL POWERS. After the delivery of the deed, the municipality is the complete and total owner of the coliseum or stadium and the related land and facilities conveyed and may:

(1) exercise all the powers with respect to the property authorized and implied by Subchapter A, Chapter 1504, Government Code, and any other laws applicable to the municipality, for the purpose of operating, maintaining, improving, or expanding the coliseum or stadium;

(2) in connection with the financing of the purchase, include any indoor or outdoor recreational facilities, properties, and entertainment attractions as may be considered by the municipality to be appropriate in connection with the coliseum or stadium; and

(3) lease or make operating agreements with respect to all or any part of the coliseum or stadium and related land and facilities for the periods and on the terms as the municipality may determine.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 66(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.311, eff. Sept. 1, 2001.

Sec. 305.017. SALE BY MUNICIPALITY. (a) If the governing body of the municipality affirmatively finds that the escalating burdens and costs of operating its stadium or coliseum acquired under this subchapter have caused continued ownership to cease to be economically feasible, resulting in increasing and unnecessary

burdens on the taxpayers of the municipality, the governing body, after giving at least 14 days' notice of and holding a public hearing on the question, may sell the stadium or coliseum to another public or private entity.

(b) The sale shall be on the terms as the governing body may approve. The municipality has all power necessary and appropriate to complete the sale in accordance with the terms of the sale.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 66(a), eff. Aug. 28, 1989.

TITLE 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
SUBTITLE A. MUNICIPAL PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
CHAPTER 306. PARK BOARD AND PARK BONDS: MUNICIPALITIES WITH POPULATION OF MORE THAN 40,000
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 306.001. ELIGIBLE MUNICIPALITIES. This chapter applies only to home-rule municipalities with a population of more than 40,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.002. DEFINITION. In this chapter, "board" means the park board of trustees.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.003. CUMULATIVE EFFECT WITH CHARTER PROVISIONS. This chapter is cumulative of home-rule charter provisions, but this chapter takes precedence in the event of a conflict.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. PARK BOARD OF TRUSTEES

Sec. 306.011. CREATION OF BOARD. The governing body of the municipality by ordinance may create a board to be known as the Park Board of Trustees for the purpose of acquiring, improving, equipping,

maintaining, financing, or operating parks.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.012. COMPOSITION; TERM. (a) The board must be composed of nine trustees appointed by the governing body of the municipality. One of the trustees must be a member of the municipality's governing body.

(b) Trustees serve for staggered terms of two years. Terms expire on the anniversary of the date of appointment, except as provided by Subsection (d).

(c) In appointing the initial board, the governing body shall designate five trustees to serve for terms of two years and four trustees to serve for terms of one year.

(d) The governing body by ordinance may set a date other than the date of appointment as the date on which trustees' terms expire. If the board is in existence at the time the ordinance is adopted, the governing body must implement the new expiration date by reducing the terms of trustees to conform to the new date. However, the expiration date may not be set on a date that would require the governing body to reduce terms by more than 60 days. An ordinance may not be adopted under this subsection more often than once in any five-year period.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 476, Sec. 1, eff. June 14, 1989.

Sec. 306.013. VACANCY. A vacancy on the board shall be filled by appointment of the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.014. COMPENSATION; EXPENSES. A trustee serves without compensation, but is entitled to be reimbursed for necessary expenses, including travel expenses, incurred in the performance of official duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.015. BOND; OATH. (a) Within 15 days after the date of appointment, a trustee must qualify for office by taking the official oath and filing a good and sufficient bond with the clerk or secretary of the municipality.

(b) The bond must be:

(1) in the amount prescribed by the governing body of the municipality, but not more than $5,000;

(2) payable to the order of the municipality;

(3) approved by the governing body; and

(4) conditioned that the trustee will faithfully perform the duties of trustee, including the proper handling of money that may come into the hands of the trustee in the trustee's capacity as a member of the board.

(c) The board shall pay the cost of the bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.016. ORGANIZATION; MEETINGS. (a) The board shall annually elect from its membership a chairman, a vice-chairman, a secretary, and a treasurer, except that the first chairman shall be designated by the governing body of the municipality at the time of appointment of the first trustees. Officers serve in that capacity for a term of one year.

(b) The offices of secretary and treasurer may be held by the same person.

(c) The board shall hold regular meetings at times fixed by the board and may hold special meetings at other times as necessary. Special meetings may be called by the chairman or by any three trustees.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.017. RECORDS; AUDIT. (a) The board shall keep a complete record of all meetings and proceedings and shall maintain the records of the board in a secure manner. Records are the property of the board and are subject to inspection by the governing body of the municipality at reasonable times.

(b) The board may contract with the governing body to have the municipality keep and maintain its records.

(c) All financial transactions and records of the board shall be audited annually by independent auditors selected by the board.

(d) The preservation, microfilming, destruction, or other disposition of the records of the board is subject to the requirements of Subtitle C, Title 6, Local Government Code, and rules adopted under that subtitle.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 60, eff. Sept. 1, 1989.

Sec. 306.018. SEAL. The board shall adopt a seal, and the seal shall be placed on each lease, deed, or other instrument usually executed under seal. The seal may be placed on other instruments as required by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 306.031. MANAGEMENT OF PARKS AND FACILITIES. (a) The ordinance establishing the board shall designate the parks and facilities owned by the municipality to be placed under the management and control of the board. The municipality may from time to time by ordinance designate additional parks and facilities to be under the management and control of the board.

(b) The board may acquire by gift, devise, or purchase, or improve or enlarge:

(1) land and buildings to be used for public parks, playgrounds, or historical museums; or

(2) land on which are located:

(A) historic buildings, sites, or landmarks of statewide historical significance associated with historic events or personalities;

(B) prehistoric ruins, burial grounds, or archaeological, paleontological, or vertebrate paleontological sites; or

(C) sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological,

or historical buildings, markers, monuments, or other historical features.

(c) Land described by Subsection (b) may be located inside or outside the boundaries of the municipality, but must be located inside the limits of the county in which the municipality is located.

(d) The board shall improve, manage, operate, maintain, equip, and finance:

(1) the parks and facilities placed by ordinance under its management and control; and

(2) additional parks and facilities acquired by gift, but not by the exercise of eminent domain.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.032. ADDITIONAL POWERS: COASTAL MUNICIPALITIES WITH POPULATION OF LESS THAN 80,000. (a) This section applies only to a home-rule municipality that has a population of less than 80,000 and borders on the Gulf of Mexico.

(b) In addition to other powers under this chapter, the municipality or the board of the municipality may acquire by any method, including by gift, devise, lease, or purchase or may improve land or buildings, or may construct or enlarge buildings, to be used for public parks, playgrounds, or other facilities that serve the purpose of attracting visitors and tourists to the municipality. The municipality or board may lease the facilities, as lessor or lessee, on terms the municipality or board considers appropriate. The land may be located inside or outside the boundaries of the municipality, but must be located inside the limits of the county in which the municipality is located.

(c) In a municipality subject to this section, the facilities placed under the management and control of the board may include:

(1) parks;

(2) civic centers, civic center buildings, auditoriums, exhibition halls, or coliseums;

(3) marinas or cruise ship terminal facilities;

(4) hotels or motels;

(5) parking or storage facilities for motor vehicles or other conveyances;

(6) golf courses;

(7) trolley or trolley transportation systems; and

(8) other facilities considered advisable in connection with the preceding facilities that serve the purpose of attracting visitors and tourists to the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 67(a), eff. Aug. 28, 1989.

Sec. 306.033. LAND ACQUIRED IN NAME OF BOARD; SALE OF LAND. Any interest in land acquired by lease or otherwise and used in connection with a park under this chapter may be acquired in the name of the board. The interest may be sold only if:

(1) the sale is made by the titleholder in compliance with the municipal charter or in compliance with Subchapter A, Chapter 263; and

(2) contractual arrangements are made for the retirement of any indebtedness associated with the interest and issued under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.034. GIFTS. The board may accept and receive from any person, and may expend, gifts of money or other things of value for the purpose of performing any function or authority conferred on the board by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.035. PUBLIC FUNDS. The board may accept and receive from the municipality, and may expend, funds appropriated by the municipality for the purpose of improving, equipping, maintaining, operating, and promoting recreational and other facilities under the board's management and control.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.036. DEPOSITORIES. The money belonging to or under

the control of the board shall be deposited and secured substantially in the manner prescribed by law for municipal funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.037. ADVERTISING. The board may advertise the municipality's recreational advantages for the purpose of attracting visitors, tourists, residents, and other users of the public facilities operated by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.038. CONTRACTS; OPERATING AGREEMENTS. (a) The board may enter into a contract, lease, or other agreement connected with, incident to, or in any manner affecting the financing, construction, equipping, maintaining, managing, or operating of facilities under its management and control. The board may execute and perform its powers and functions on land leased from others.

(b) The board may enter into a contract, lease, or agreement with any person relating to the management, operation, or maintenance of any concession, facility, improvement, leasehold, land, or property of any other nature under the management and control of the board. Such a lease or agreement for the use of board properties by others may not exceed a term of 40 years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.039. RULES. The board may adopt and enforce reasonable rules, including rules establishing a means of enforcing other rules, relating to the use of parks and facilities under the management and control of the board, including use by the public or by lessees, concessionaires, or other persons carrying on a business activity within the area of the parks and facilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.040. PERSONNEL. (a) The board may employ permanent

or temporary personnel as it may require, including:

(1) secretaries, stenographers, bookkeepers, accountants, and technical experts;

(2) municipal park and recreational patrol officers and security officers employed as special park police officers, who must be licensed as peace officers by the Texas Commission on Law Enforcement;

(3) unarmed security guards; and

(4) parking attendants.

(b) The board shall determine the qualifications, duties, and compensation of its personnel.

(c) A special park police officer appointed and commissioned by the board under this section may make arrests or perform any other service or duty that may be performed by a sheriff, constable, or other peace officer in enforcing the laws of this state, the ordinances of the municipality, the ordinances of the county, and the rules of the board applicable to the use of municipal parks and facilities under the management and control of the board.

(d) The board may employ a manager for any park or facility and delegate to the manager full authority for the management and operation of the park or facility, subject only to the direction and orders of the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.55, eff. May 18, 2013.

Sec. 306.041. SUITS; LEGAL SERVICES. (a) The board may sue and be sued in its own name.

(b) The board may request from the municipal attorney the legal services it requires. In addition or in the alternative, the board may employ and compensate its own counsel and legal staff.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. FINANCING

Sec. 306.051. REVENUE BONDS. (a) The board may issue revenue bonds in the name of the board for the purpose of acquiring,

constructing, improving, or enlarging land, buildings, facilities, or historically significant objects for any statutory purpose or to further a statutory power of the board.

(b) The bonds are payable solely from, and secured by a pledge of, the revenues of all or any designated part of the property or facilities under the management and control of the board or other revenues of the board including revenue from an occupancy tax on hotel rooms or from contracts, leases, or other agreements.

(c) The bonds may be issued in one or more installments or series by resolution of the board. Issuance of the bonds does not require an election.

(d) The bonds may be sold at any price and bear interest at any rate, except that the net effective interest rate may not exceed the maximum allowed by law. The bonds shall be sold by the board at public or private sale on the best terms obtainable.

(e) The bonds shall mature serially or otherwise not more than 40 years after the date of issuance.

(f) The bonds shall be executed by the chairman and secretary of the board in the manner provided for the execution of bonds issued by municipalities.

(g) The bonds shall be issued on terms and conditions in regard to the security, manner, place, and time of payment, pledge of designated revenue, redemption before maturity, and issuance of additional parity or junior lien bonds as specified by the board in the resolution authorizing issuance of the bonds.

(h) Except as provided by this chapter, Chapter 1502, Government Code, applies to the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.312, eff. Sept. 1, 2001.

Sec. 306.052. BOND APPROVAL AND REGISTRATION. (a) The bonds may not be delivered until:

(1) a transcript of the proceedings authorizing their issuance has been submitted to the attorney general and approved by the attorney general as to legality; and

(2) the bonds have been registered by the comptroller of public accounts.

(b) If approved by the attorney general, the bonds are

incontestable except for fraud.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.053. BONDS AS NEGOTIABLE INSTRUMENTS AND AUTHORIZED INVESTMENTS. (a) The bonds are negotiable instruments and investment securities governed by Chapter 8, Business & Commerce Code.

(b) The bonds are authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for the sinking funds of municipalities, counties, school districts, and other political corporations or subdivisions of the state.

(c) The bonds are eligible to secure the deposit of public funds of the state and of municipalities, counties, school districts, and other political corporations or subdivisions of the state, and are sufficient security for those deposits to the extent of their face value if accompanied by all unmatured appurtenant interest coupons.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.054. REFUNDING BONDS. (a) The board may issue refunding bonds for the purpose of refunding one or more series or installments of outstanding original or refunding revenue bonds of the board.

(b) The refunding bonds must be issued, approved by the attorney general, and registered with the comptroller of public accounts in the manner and on the terms and conditions prescribed by this chapter for the issuance of original bonds.

(c) Refunding bonds must bear interest at rates not to exceed that provided by this chapter for original bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 306.055. TAX BONDS. (a) The board may not issue any bonds payable in whole or in part from ad valorem taxes.

(b) The board may receive and expend the proceeds of bonds that

are payable from taxes and have been issued by the governing body of the municipality for park purposes after the bonds have been authorized at an election held in the manner required by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 307. USE OF TIDELANDS FOR PARK PURPOSES: GULF COAST MUNICIPALITIES WITH POPULATION OF 50,000 OR MORE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 307.001. ELIGIBLE MUNICIPALITIES. A municipality that borders on the Gulf of Mexico and has a population of 50,000 or more may use and occupy for park purposes gulf tidelands and adjacent water as provided by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 598, Sec. 1, eff. June 11, 2001.

Sec. 307.002. PROPERTY SUBJECT TO PARK USE. (a) The municipality may use and occupy for park purposes under this chapter:

(1) the tidelands between:

(A) the lines of ordinary high tide and ordinary low tide of the Gulf of Mexico; and

(B) extensions into the gulf, not more than 1,000 feet apart, of property lines of property that is above and fronting the tidelands and is owned or acquired by the municipality for park purposes or in or to which the municipality has or may acquire easements or other rights or privileges authorizing the municipality to use or occupy the property for park purposes; and

(2) the waters of the gulf adjacent to those tidelands, and the gulf bed below those waters, for a distance not to exceed 2,000 feet from the line of ordinary high tide.

(b) The municipality may declare abandoned for use as streets or highways and may take, use, and occupy for park purposes all or part of any land previously dedicated as a public street or highway that, because of submersion by the waters of the gulf or the building of a seawall, breakwater, or other structure, has become unfit for use as a street or highway, as determined and declared by the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 307.003. DEFINITION. In this chapter, "park land" means the land to which the municipality is granted use and occupancy for park purposes by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 307.004. RIGHTS UNAFFECTED. (a) This chapter does not authorize the taking of any private property or interest without compensation as required by the Texas Constitution.

(b) The State of Texas retains all of the oil, gas, and other mineral rights in and under the park land owned by the state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 307.005. ADDITIONAL POWERS. The powers granted a municipality by this chapter are in addition to any other power conferred by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. MANAGEMENT AND DEVELOPMENT OF PARK LAND

Sec. 307.021. MANAGEMENT AND DEVELOPMENT OF PARK; PIER. (a) The governing body of a municipality is entitled to manage and control the park land for park purposes as provided by this chapter.

(b) The governing body may acquire, erect, construct, repair, enlarge, extend, improve, remodel, furnish, equip, operate, and maintain on the park land not more than one pier extending from the shore and other structures on the pier to provide facilities for recreation, amusement, comfort, assemblies, and lodging of the public.

(c) The pier may not:

(1) extend into the gulf for a distance of more than 2,000 feet from the line of ordinary high tide;

(2) extend into any part of a channel deepened or improved for commercial navigation or between the shoreline and any such

channel; or

(3) extend into any arm, inlet, bay, or body of water other than the main body of the Gulf of Mexico.

(d) The governing body may determine the suitability of structures or facilities to be provided on the pier and may allow for the erection, provision, operation, and maintenance of any structure or facility for the convenience and comfort of the public, including one or more of the following:

(1) theaters;

(2) restaurants;

(3) accommodations for overnight and transient guests;

(4) convention halls;

(5) dance halls;

(6) aquariums;

(7) exhibition halls;

(8) stadiums for aquatic or other sports;

(9) concession and amusement device stands or platforms;

(10) fishing platforms;

(11) walkways;

(12) restrooms, toilet facilities, and resting places; and

(13) any other structure or facility reasonably adapted and suitable for park purposes on or in connection with the pier.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 307.022. ACQUISITION OF PRIVATE LANDS FOR PARK. The municipality may acquire by gift or purchase any interest in privately owned land within the limits of the municipality for use for park purposes in connection with the pier as the governing body of the municipality determines is necessary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 307.023. LEASES AND OPERATING AGREEMENTS. (a) The governing body of the municipality may enter into any contract in connection with the pier and its facilities on terms it considers to be in the best interest of the municipality, including:

(1) a lease under which all or part of the pier is leased to one or more other parties; and

(2) an operating contract under which all or part of the pier is to be operated by one or more other parties.

(b) A lease or operating contract must be authorized by ordinance or resolution adopted by the governing body and may cover any term of years not to exceed 40 years from the date of the lease or contract.

(c) All or part of the proceeds derived by the municipality from a lease or operating contract may be pledged to the payment of revenue bonds issued by the municipality under Subchapter C.

(d) A lease may authorize the lessee to acquire or construct improvements or facilities and may provide for the transfer of the improvements or facilities to the municipality at the termination of the lease.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. FINANCING

Sec. 307.041. TAX BONDS. (a) For the purpose of paying for all or part of the costs of acquiring privately owned land under Section 307.022 or the costs of constructing, furnishing, and equipping the pier or another structure connected with the pier, the municipality may borrow money, issue negotiable bonds, and levy and collect ad valorem taxes sufficient to pay the interest on and provide a sinking fund for the bonds.

(b) The bonds shall be issued in accordance with Subtitles A and C, Title 9, Government Code. If bonds for the purposes described by this section have been authorized at a previous election in accordance with that chapter, the bonds may be issued without an additional election.

(c) The governing body of the municipality may use bond proceeds to pay part of the cost of erecting, constructing, furnishing, or equipping a structure or improvement authorized by this chapter that, together with the interest in the land occupied by or used in connection with the structure or improvement and the income from the structure or improvement, is to be or has been mortgaged and encumbered for the purpose of paying the additional costs of acquiring, erecting, constructing, furnishing, or equipping the structure or improvement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 2001, 77th Leg., ch. 1420, Sec. 8.313, eff. Sept. 1, 2001.

Sec. 307.042. REVENUE OBLIGATIONS. (a) For the purpose of obtaining funds for any purpose authorized by this chapter, the governing body of the municipality may from time to time issue bonds, notes, or warrants secured by a pledge of and payable from the net revenues derived from the operation of all or a designated part of the pier, structures, or improvements.

(b) As additional security for the bonds, notes, or warrants, the municipality may mortgage and encumber all or a designated part of:

(1) the pier, structures, or improvements;

(2) the furnishings and equipment; or

(3) the interest, easement, or other rights in land acquired or to be acquired and used in connection with the park land, including the right of use and occupancy of the park land and the title or rights to the tidelands, waters, or beds of the Gulf of Mexico acquired by the municipality.

(c) As additional security for the bonds, notes, or warrants, the municipality may, by the terms of a mortgage, grant to the purchaser under sale or foreclosure a franchise to operate the properties purchased for a period of not more than 99 years after the purchase. If at the time of the sale or foreclosure there is a pier, structure, or improvement located in whole or in part on or over state-owned tideland, water, and bed of the Gulf of Mexico, during that period of 99 years the purchaser and the purchaser's heirs, successors, and assigns have the same right of use and occupancy to the state-owned tideland, water, and bed as is granted to the municipality under this chapter. On termination of that period or on cessation of use of the property for that purpose, the right of use and occupancy reverts to the municipality.

(d) The municipality may issue bonds, notes, and warrants and mortgage and encumber property under this section whether all or part of the cost is to be paid from:

(1) bonds, notes, and warrants issued under this section;

(2) bonds or warrants issued under Section 307.041 or 307.046;

(3) funds obtained from any other lawful source; or

(4) a combination of those sources.

(e) The municipality may sell the property described by Subsection (b) if no bonded indebtedness remains outstanding. If the municipality sells the property, the General Land Office may grant to the purchaser a lease of the state-owned tideland, water, and bed beneath the property or, if necessary, a larger area for a period of not more than 99 years after the purchase. The purchaser and the purchaser's heirs, successors, and assigns have the same right of use and occupancy to the state-owned tideland, water, and bed as is granted to the municipality under this chapter. On termination of that period or on cessation of use of the property for that purpose, the right of use and occupancy reverts to the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 598, Sec. 2, eff. June 11, 2001.

Sec. 307.043. ISSUANCE OF REVENUE OBLIGATIONS. (a) This section applies to the bonds and other obligations issued under Section 307.042.

(b) The bonds shall be made payable to the bearer or to the order of a named payee. The bonds are payable solely from the pledged revenues and, at the option of the municipality, secured by the mortgage and franchise authorized by Section 307.042.

(c) The bonds shall bear interest at a rate not to exceed the maximum net effective interest rate provided by Chapter 1204, Government Code.

(d) The bonds must mature serially or otherwise not more than 40 years after the date of issuance. The governing body of the municipality shall determine:

(1) the denominations of the bonds;

(2) one or more places at which the bonds are payable as to interest or principal, which may be any bank inside or outside this state;

(3) the medium for payment of the bonds;

(4) the manner in which interest on the bonds is payable;

(5) any provisions for redemption of the bonds before maturity; and

(6) the form of the bonds.

(e) A bond or interest coupon bearing the signature or facsimile signature of an official of the municipality who was

authorized to sign the bond or coupon at the time of the signature is not invalid because of the official's ceasing to hold the office before delivery of the bonds or not having held office on the date of the bonds.

(f) The governing body may provide for the bonds to be registrable as to principal and interest, or as to principal only, under the terms prescribed by the governing body. The bonds may be issued not subject to registration.

(g) The bonds may be executed in the manner set forth in the proceedings authorizing their issuance, and those proceedings may provide that the bonds or coupons, or both, shall be executed by facsimile signatures and that a facsimile seal of the municipality be printed on the bonds.

(h) In the proceedings authorizing the issuance of the bonds, the governing body may prohibit the further issuance of bonds payable from the pledged revenues or may reserve the right to issue additional bonds to be secured by a pledge of and payable from those net revenues on a parity with or subordinate to the lien and pledge in support of the bonds being issued, subject to any conditions as set forth in the proceedings.

(i) If a bond recites that it is secured partially or otherwise by a pledge of the proceeds of one or more contracts made between the municipality and one or more other parties, including a lease or operating contract, a copy of the contracts and the proceedings authorizing the contracts shall be submitted to the attorney general. Approval of the bonds by the attorney general constitutes approval of the contracts, which makes the contracts incontestable except for forgery or fraud.

(j) A bond or other obligation is not a debt of the municipality, but is solely a charge on the income and properties encumbered. The obligation may not be considered in determining the power of the municipality to issue bonds for a purpose authorized by law. Each obligation must contain substantially the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

(k) The nature of the pledge of income and encumbrance of properties to secure the obligations and the control, management, and operation of the properties while any of the obligations remain unpaid is subject to and governed by Chapter 1502, Government Code,

in the same manner as parks described in Section 1502.051. The issuance of the bonds does not require an election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.314, eff. Sept. 1, 2001.

Sec. 307.044. REFUNDING REVENUE BONDS. (a) The governing body of the municipality may provide by ordinance for the issuance of revenue refunding bonds for the purpose of refunding outstanding revenue bonds and any accrued interest, interest on past due principal, interest on past due interest, and court judgments pertaining to past due principal and interest.

(b) The issuance of refunding bonds, the maturity dates and other details of the bonds, the rights of bond holders, and the duties and powers of the municipality in regard to the bonds are governed by the provisions of this chapter relating to original revenue bonds to the extent those provisions can be made applicable.

(c) Refunding bonds may bear interest at a rate higher than that borne by the underlying bonds, but may not exceed the maximum net effective interest rate applicable to those bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 307.045. BONDS AS NEGOTIABLE INSTRUMENTS AND AUTHORIZED INVESTMENTS. (a) All bonds issued under this chapter are negotiable instruments under Chapter 3, Business & Commerce Code.

(b) The bonds are legal investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for the sinking funds of municipalities, counties, school districts, and other political corporations or political subdivisions of the state.

(c) The bonds are eligible to secure the deposit of any public funds of the state or of a municipality, county, school district, or other political corporation or political subdivision of the state. The bonds are sufficient security for the deposits to the extent of their face value when accompanied by all unmatured appurtenant interest coupons.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 307.046. ADDITIONAL TAX; TIME WARRANTS. (a) In addition to the taxes authorized for the payment of principal of and interest on bonds, the governing body of the municipality may levy and collect an annual ad valorem tax for the purpose of:

(1) defraying in part the cost of acquiring, building, constructing, erecting, furnishing, or equipping the pier or a structure or improvement, or the cost of any interest in land in connection with the pier, structure, or improvement; or

(2) repairing, enlarging, extending, altering, or improving the pier or a structure or improvement.

(b) The governing body may issue interest-bearing time warrants, payable from the taxes authorized by this section, and expend the proceeds for the same purposes for which the taxes may be levied.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 308. MUNICIPAL BANDS

Sec. 308.001. DEFINITION. In this chapter, "band" means a band composed of musical instruments recognized in the standard instrumentation established for use in United States Army bands.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 308.002. ESTABLISHMENT AND MAINTENANCE. (a) A municipality may establish and maintain a band and appropriate municipal funds for the maintenance and operation of the band as determined by the municipal governing body.

(b) The total appropriation for the band for a year may not exceed the equivalent of three-tenths of a cent for each one dollar of taxable value of property within the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 308.003. ELECTION. (a) On receipt of a written petition signed by a number of qualified property taxpaying voters equal to at

least 10 percent of the total number of votes cast in the most recent municipal general election, the governing body of the municipality shall submit to the voters of the municipality the question of whether a band shall be established and maintained by the municipality.

(b) To the extent possible, the election shall be held in accordance with the law governing the municipality's general elections.

(c) If a majority of the votes received are in favor of the proposition to establish and maintain a band, the governing body shall establish and maintain a band.

(d) If the proposition is defeated, on receipt of a similar petition the municipality may hold subsequent elections for the purpose of determining whether to establish and maintain a band.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 308.004. ELECTION TO DISCONTINUE BAND. (a) On receipt of a petition meeting the requirements of Section 308.003, the governing body of the municipality shall hold an election to determine whether to discontinue a band previously established under this chapter. The election shall be conducted in the same manner as the election establishing the band.

(b) If a majority of the votes received are in favor of the proposition to discontinue the band, the governing body shall discontinue the band and municipal maintenance of the band.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 308.005. FREQUENCY OF ELECTIONS. A municipality may not hold two elections under this chapter within a period of less than two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 308.006. ORDINANCES. The governing body of the municipality may adopt any ordinance or resolution to enable the municipality to maintain the band.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 308.007. CITIZEN COMMISSION. The governing body of the municipality shall appoint a nonpartisan citizen commission composed of three, four, or five members to negotiate contracts, formulate rules, and do all other things necessary or proper to establish, control, and maintain the band.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 308.008. EFFECT OF LAW ON OTHER POWERS. This chapter does not affect any special charter granted by the legislature, or any charter adopted by the voters, before August 23, 1925.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 309. ARTS AND ENTERTAINMENT DISTRICTS

Sec. 309.001. ARTS AND ENTERTAINMENT DISTRICTS. (a) A municipality with a population of more than one million may designate a defined area in the municipality as an arts and entertainment district to develop a public and private collaboration that plays a vital role in the cultural life and development of the community in the district.

(b) The municipality shall develop the area in the district so that it contributes to the public through interpretive, educational, and recreational uses.

(c) The municipality may solicit grants and donations for the development of the district.

(d) The municipality may provide incentives to persons to develop the area in the district for public purposes.

(e) The municipality may provide tax breaks to persons in the district to develop the district for public purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 482 (H.B. 2514), Sec. 1, eff. June 16, 2007.

CHAPTER 315. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL PARKS AND

OTHER RECREATIONAL AND CULTURAL RESOURCES

Sec. 315.001. MUNICIPAL PARKS OUTSIDE MUNICIPAL LIMITS: CHARGES; CUMULATIVE EFFECT WITH CHARTER PROVISIONS; LIABILITY. (a) The governing body of a municipality with a park or playground outside the municipal limits may fix and collect reasonable charges for use of the facilities by the public. All proceeds from the charges shall be used for the support, maintenance, and improvement of the municipal parks and playgrounds.

(b) The provisions of this title relating to the acquisition, operation, and maintenance of parks or playgrounds outside the municipal limits are cumulative of powers provided by a municipal charter, and the municipal charter may provide different powers in that regard.

(c) A municipality that acquires a park or playground outside the municipal limits is not liable for personal injuries resulting from or caused by any defective, unsound, or unsafe condition of the park or playground that results from or is caused by any negligence, want of skill, or lack of care of any governing board, officer, servant, employee, or other person with regard to the construction, management, conduct, or maintenance of the park or playground.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.002. ESTABLISHMENT OF MUNICIPAL STREETS THROUGH CERTAIN PARKS. (a) Unless approved by a majority of the qualified voters voting in a referendum on the question, a municipality may not establish or dedicate a thoroughfare, public street, or alley through property that:

(1) is dedicated or used for park purposes; and

(2) includes land owned by the state on which is situated one or more buildings in the construction of which the state has expended at least $50,000.

(b) A municipality may, without an election, maintain driveways through the land described by Subsection (a) if the driveways are for park purposes only and are not for use as general thoroughfares.

(c) This section does not apply to the campus of an educational institution or to the grounds of an eleemosynary institution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.003. IMPROVEMENT OF PUBLIC GROUNDS BY TYPE A GENERAL-LAW MUNICIPALITY. A Type A general-law municipality may provide for the enclosing of, and regulate and improve, all public grounds belonging to the municipality, and may direct and regulate the planting and preserving of ornaments and shade trees along streets and sidewalks and in public grounds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.004. SPECIAL ASSESSMENT TO PAY FOR PARKS: MUNICIPALITY WITH 12,000 OR MORE INHABITANTS. (a) A municipality with 12,000 or more inhabitants that condemns land for laying out, establishing, or enlarging a park, parkway, or pleasure ground may provide by ordinance that the cost of the land and improvements be paid for, wholly or partly to an extent not exceeding the special benefits received, by the property owners who own property in the vicinity of and are benefitted by the park, parkway, or pleasure ground.

(b) The municipality may fix liens against the benefitted property to the extent of the special benefits. Neither an assessment nor a lien is effective against homestead property.

(c) The manner of assessing and collecting from the property owner is the same as provided by law in connection with the opening or widening of streets. Assessments may be made payable in not more than 16 installments, the last maturing in not more than 15 years, and may bear interest at a rate not exceeding eight percent a year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.005. MUNICIPAL LIBRARY IN TYPE A GENERAL-LAW MUNICIPALITY. A Type A general-law municipality may establish a free library in the municipality, adopt rules for the proper management of the library, and appropriate municipal revenues for the library's management or improvement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 315.006. LIABILITY FOR ADVERSELY AFFECTING HISTORIC

STRUCTURE OR PROPERTY. (a) In this section, "historic structure or property" means a historic structure as defined by Section 442.001, Government Code, or a structure or property that is designated as historic by a political subdivision of the state, the state, or the federal government.

(b) A person is liable to a municipality for damages if the municipality has a demolition permit and a building permit procedure and the person:

(1) demolishes, causes to be demolished, or otherwise adversely affects the structural, physical, or visual integrity of a historic structure or property that is located in the municipality; and

(2) does not obtain the appropriate demolition or building permit or other form of written permission from the municipality before beginning to demolish, cause the demolition of, or otherwise adversely affect the structural, physical, or visual integrity of the structure or property.

(c) If the structural, physical, or visual integrity of the structure or property is adversely affected to the extent that it is not feasible to restore the structural, physical, or visual integrity substantially to its former level, the damages are equal to the cost of constructing, using as many of the original materials as possible, a new structure or property that is a reasonable facsimile of the historic structure or property and the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section. If it is feasible to restore the structural, physical, or visual integrity of the structure or property substantially to its former level, the damages are equal to the cost of the restoration, using as many of the original materials as possible, and the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(d) Instead of accepting monetary damages, the municipality may permit the liable person to construct, using as many of the original materials as possible, a structure or property that is a reasonable facsimile of the demolished historic structure or property or to restore, using as many of the original materials as possible, the historic structure or property and to pay the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(e) Damages recovered under this section shall be deposited in

a special fund in the municipal treasury and may be used only to construct, using as many of the original materials as possible, a structure or property that is a reasonable facsimile of the demolished historic structure or property, to restore, using as many of the original materials as possible, the historic structure or property, or to restore another historic structure or property, as determined by the municipality.

(f) The construction of a facsimile structure or property under Subsection (d) or (e) must be undertaken at the location designated by the municipality, which may be the same location as that of the demolished historic structure or property.

(g) The municipality may make contracts and adopt ordinances as necessary to carry out this section.

(h) Each municipality shall file in the real property records of the county clerk's office of each county in which the municipality is located a verified written instrument listing each historic structure or property that is located in the municipality and county and is designated as historic by a political subdivision of the state by:

(1) the street address, if available in the municipal files;

(2) the legal description of the real property on which the structure or property is located; and

(3) the name of the owner of the real property, if the name is available in the municipal files.

(i) Subsections (a) through (g) of this section apply only to a historic structure or property on or after the date the instrument has been filed under Subsection (h) and indexed.

(j) A person is liable to the Texas Historical Commission for damages if:

(1) the person:

(A) demolishes, causes to be demolished, or otherwise adversely affects the structural, physical, or visual integrity of a historic structure or property that is located in the municipality; and

(B) does not obtain the appropriate demolition or building permit or other form of written permission from the municipality before beginning to demolish, cause the demolition of, or otherwise adversely affect the structural, physical, or visual integrity of the structure or property; and

(2) the commission determines that the municipality has not filed a civil action under Subsection (b) and has not taken appropriate action to carry out Subsection (d) before the 90th day after the date the action described by Subdivision (1)(A) occurs.

(k) If the Texas Historical Commission makes a determination under Subsection (j)(2), the commission may enforce this section, and the municipality may not act under this section. Damages recovered under this subsection shall be deposited in the Texas preservation trust fund account.

Added by Acts 1991, 72nd Leg., ch. 594, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 22, eff. Aug. 30, 1995.

SUBTITLE B. COUNTY PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

CHAPTER 316. COUNTY USE FEES

SUBCHAPTER A. GENERAL AUTHORITY

Sec. 316.001. AUTHORITY TO SET AND COLLECT FEES. Except as provided by Section 316.002, the commissioners court of a county may set and collect fees:

(1) for the use of county recreational facilities, including facilities constructed or installed in a county park;

(2) for the use of recreational services provided by the county;

(3) for the rental or sale of recreational supplies by the county in conjunction with the provision of county recreational facilities or services; or

(4) for admission to a county park, if approved by a majority of the qualified voters of the county voting on the issue at a referendum election, which the commissioners court may order and hold for that purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 424, Sec. 1, eff. Aug. 28, 1989.

Sec. 316.002. EXCEPTIONS. This chapter does not authorize the commissioners court to set or collect a fee:

(1) for the use of a toilet or other restroom facility;

(2) for the sale of water for human consumption; or

(3) for the use of a team sports facility, including a baseball, football, basketball, volleyball, or soccer facility, by a sports team composed primarily of minors and sponsored and supported by a nonprofit organization.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 424, Sec. 2, eff. Aug. 28, 1989.

Sec. 316.003. AMOUNT OF FEES. (a) Except as provided by Subsection (b), the commissioners court may not set the fees in amounts that would produce more total revenue in a year than is necessary to pay the annual expense of providing all county recreational facilities and services.

(b) The commissioners court may set the fee for admission to a county park in an amount not to exceed the maximum amount provided by law for entrance to a state park.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 424, Sec. 3, eff. Aug. 28, 1989.

Sec. 316.004. SPECIAL CIRCUMSTANCES; WAIVER. The commissioners court may set and collect the fees in different amounts or may waive the fees in consideration of the following factors:

(1) the time of the day at which or the day of the week on which a facility or service is used;

(2) the size of a group wishing to use a facility or service;

(3) the special circumstances of certain classes of persons, including elderly persons and indigent persons; or

(4) other factors that the court considers to justify a different fee or the waiver of a fee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 316.005. DISPOSITION OF FEES. Fees collected under this chapter shall be deposited in the general fund of the county, and fees collected for admission to a county park may be used only to

maintain or improve the county park the admission for which the fees were collected.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 424, Sec. 4, eff. Aug. 28, 1989.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 316.021. MUSEUMS AND HISTORIC SITES IN POPULOUS COUNTIES. (a) The commissioners court of a county with a population of 2.2 million or more may charge and collect a fee from the general public for admission to a county-operated museum, historical site, historical building, or other similar building or site.

(b) The commissioners court by order may set the admission fee authorized by this section.

(c) Admission fees charged and collected under this section shall be placed in a county special fund to be used by the commissioners court for the payment of costs associated with the administration, maintenance, security, or staffing necessary to operate the building or site. The special fund may not be expended for purposes other than those associated with the building or site.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 93, 94, eff. Sept. 1, 2001.

Sec. 316.022. MUSEUMS AND HISTORIC SITES IN CERTAIN COUNTIES OPERATED BY NONPROFIT ORGANIZATIONS. (a) The commissioners court of a county with a population of 2.2 million or more may enter into a contract with a nonprofit organization authorizing the nonprofit organization to:

(1) manage and operate a museum, historical site, historical building, or similar building or site in the county; and

(2) charge and collect a fee from the general public for admission to the museum, historical site, historical building, or similar building or site if the nonprofit organization is not obligated to the county for capital improvements to the museum, historical site, historical building, or similar building or site.

(b) The commissioners court by order shall set the admission fee authorized by the contract.

(c) The funds generated by the admission fees are not required

to be deposited in the county treasury.

(d) The nonprofit organization may spend funds generated by the admission fees for the payment of costs associated with the administration, maintenance, security, or staffing necessary to operate the building or site as approved by the commissioners court and provided by the contract. The funds may not be spent for purposes other than those associated with the building or site.

(e) In this section, "nonprofit organization" means a private, nonprofit, tax-exempt organization described by Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)), as amended.

Added by Acts 1997, 75th Leg., ch. 800, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 95, eff. Sept. 1, 2001.

CHAPTER 317. ABANDONMENT OF COUNTY PARKS

Sec. 317.001. HEARING. On the application of any person, the commissioners court of a county shall hold a hearing to determine if land dedicated as a county park is undesirable for park purposes and if the park should be closed and abandoned. The commissioners court may conduct such a hearing on its own motion.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 317.002. NOTICE OF HEARING. (a) Notice of the time and place of the hearing shall be published in a newspaper published in the county. The notice must be in English and must be published once a week for three consecutive weeks before the hearing, with the first publication appearing before the 21st day before the date of the hearing.

(b) If no newspaper is published in the county, the commissioners court shall post the notice at the courthouse door. The notice must remain posted for at least 21 consecutive days preceding the date of the hearing.

(c) The notice must:

(1) contain a brief description of the land;

(2) state that at the hearing the commissioners court will determine whether the park should be closed and abandoned; and

(3) direct all interested persons desiring to protest the closing and abandonment to appear at the time and place of the hearing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 317.003. ACTION AT HEARING. (a) At the hearing, the commissioners court shall:

(1) hear evidence as to whether the land is desirable for park purposes; and

(2) make a full investigation as to whether the public interest would be better served by the retention and maintenance of the land as a county park or by the closing and abandonment of the park.

(b) After the hearing, the commissioners court shall enter in its minutes an order retaining the park or abandoning and closing the park, according to its determination as to the best public interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 317.004. EFFECT OF ABANDONMENT. (a) If the commissioners court orders that the park be closed and abandoned, the dedication of the land for that purpose expires, and the owner of the land holds fee simple title unencumbered by the dedication.

(b) To be vested with an unencumbered title under this section, the owner of the land must pay to the state and each political subdivision any taxes due on the land at the time the land was conveyed to the county for park purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 318. HISTORIC PRESERVATION BY COUNTIES

SUBCHAPTER A. COUNTY HISTORICAL COMMISSION

Sec. 318.001. DEFINITION. In this subchapter, "commission" means the county historical commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 318.002. ESTABLISHMENT. The commissioners court of a county may appoint a county historical commission for the purpose of initiating and conducting programs suggested by the commissioners court and the Texas Historical Commission for the preservation of the county's historic cultural resources. Programs suggested by the Texas Historical Commission must be consistent with the statewide preservation plan. In suggesting programs, the Texas Historical Commission shall consider the fiscal and human resources the county has to conduct the programs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.003. COMPOSITION; TERM. (a) The commission must be composed of at least seven residents of the county. Members of the commission must be individuals who broadly reflect the age, ethnic, and geographic diversity of the county.

(b) The members of the commission shall be appointed during the month of January of odd-numbered years and are appointed for a term of two years. The commissioners court shall fill a vacancy on the commission for the remainder of the unexpired term.

(c) Each commission member must have an interest in historic preservation and an understanding of local history and resources.

(d) The commissioners court shall provide to the Texas Historical Commission a list of appointed members and the mailing address of each member.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.004. APPOINTMENT BY STATE. If the commissioners court fails to appoint a commission by April 1 of each odd-numbered year, the Texas Historical Commission may appoint the commission after 30 days' written notice to the commissioners court of its intention to do so. The county judge shall serve as commission chair during any interim period.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.005. MEETINGS. (a) The commission shall meet at least four times each year and may meet as often as the commission may determine under rules adopted by it for its own regulation.

(b) All meetings of the commission shall be conducted in accordance with the open meetings law, Chapter 551, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.006. RESOURCE IDENTIFICATION. (a) The commission should institute and carry out a continuing survey of the county to determine the existence of historic buildings and other historical and archeological sites, private archeological collections, important endangered properties, or other historical features within the county, and should report the data collected to the commissioners court and the Texas Historical Commission.

(b) The commission should develop and maintain its inventory of surveyed individual properties and districts in accordance with standards established by the Texas Historical Commission.

(c) The commission should establish a system for the periodic review and assessment of the condition of designated properties in the county, including Recorded Texas Historic Landmarks, State Archeological Landmarks, and individual historic properties or districts listed in the National Register of Historic Places. The commission should report the results of the review and assessment to the Texas Historical Commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.007. EDUCATION. The commission should strive to create countywide awareness and appreciation of historic preservation and its benefits and uses.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.008. REPORTS AND RECOMMENDATIONS. (a) In order to inform the commissioners court and the Texas Historical Commission of the commission's needs and programs, the commission shall make an annual report of its activities and recommendations to the commissioners court and to the Texas Historical Commission before the end of each calendar year. The commission may make as many other reports and recommendations as it sees fit.

(b) The commission shall make recommendations to the commissioners court and the Texas Historical Commission concerning the acquisition and designation of property, real or personal, that is of historical or archeological significance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.009. FISCAL AND HUMAN RESOURCES. (a) The commissioners court may pay the necessary expenses of the commission.

(b) The commissioners court may make agreements with governmental agencies or private organizations and may appropriate funds from the general fund of the county for the purpose of:

(1) erecting historical markers and monuments;

(2) purchasing objects and collections of objects that are historically significant to the county;

(3) preparing, publishing, and disseminating, by sale or otherwise, a history of the county;

(4) hiring professional staff and consultants;

(5) providing matching funds for grants; and

(6) funding other programs or activities as suggested by the Texas Historical Commission and the commissioners court.

(c) The Texas Historical Commission may make grants available to the commission, subject to the budgetary authority and approval of the commissioners court, to carry out the purposes of this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.010. RESOURCE INTERPRETATION. (a) The commission shall review applications for Official Texas Historical Markers to determine the accuracy, appropriateness, and completeness of the

application.

(b) The commission should establish a system for the periodic review, assessment, and maintenance of Official Texas Historical Markers in the county.

(c) The commission should work to promote historic and cultural sites in the county to develop and sustain heritage tourism.

(d) The commission may:

(1) operate and manage any museum owned or leased by the county;

(2) acquire artifacts and other museum collections in the name of the museum or the commission; and

(3) supervise any employees hired by the commissioners court to operate the museum.

(e) In operating museums, the commission shall adhere to professional standards in the care, collection, management, and interpretation of artifacts.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.0101. PLANNING. The commission should work in partnership with other preservation entities in the county to prepare a plan for the preservation of the county's historic and cultural resources. The commission should use the Texas Historical Commission's statewide preservation plan for guidance.

Added by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.0102. LEADERSHIP AND TRAINING. (a) The Texas Historical Commission shall make orientation materials and training available to all county historical commissions.

(b) The commission should strive to be represented at informational or educational meetings sponsored by the Texas Historical Commission at least twice each year.

(c) The commission, with assistance from the Texas Historical Commission, shall carry out board and volunteer training.

Added by Acts 2001, 77th Leg., ch. 377, Sec. 1, eff. Sept. 1, 2001.

Sec. 318.012. HISTORIC SITE TAX EXEMPTION. (a) The commissioners court may establish a program under which the commission:

(1) receives and reviews applications that are filed with the county and that request a property tax exemption under Section 11.24, Tax Code; and

(2) recommends to the commissioners court whether to grant the exemption and, if the grant of the exemption is recommended, how much of the property's assessed value should be exempt from taxation.

(b) The commission may examine the property that is granted the exemption on recommendation of the commission and recommend to the commissioners court whether the exemption should be withdrawn because of changed circumstances involving the property.

(c) A person is entitled to appear before the commissioners court and state any objections to a recommendation made by the commission under this section regarding property owned by the person.

(d) The commissioners court may require a person whose property is granted the exemption to notify the commission of any plans the person may have to modernize the property or change it in any other manner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 318.013. CONTRACTS FOR LEASE OR MANAGEMENT OF LANDMARKS. (a) The commissioners court may, on recommendation of the commission or other interested persons, contract with a private person for the lease or management of any county-owned real estate or structure that is designated by the Texas Historical Commission as a Recorded Texas Historic Landmark considered worthy of preservation because of its history, culture, or architecture.

(b) The contract must be drawn in consultation with the commission and must specify the duties of the contracting party, including duties as to:

(1) maintenance and repairs;

(2) providing public access;

(3) restricting inappropriate commercial uses; and

(4) promoting preservation of the historic, cultural, or architectural aspects of the landmark.

(c) The contract may be handled in the same manner as a

contract for professional services rendered to a county, such as a contract for architectural or engineering services, if the contract is with a nonprofit organization chartered in this state.

(d) The contract may be for a period of years as determined by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. SUPPORT OF PRIVATE ORGANIZATIONS

Sec. 318.021. APPROPRIATIONS TO HISTORICAL FOUNDATIONS: CERTAIN COUNTIES. The commissioners court of a county with a population of 239,000 to 825,000 may appropriate money from the general fund of the county to a historical foundation or organization in the county for the purpose of purchasing, constructing, restoring, preserving, maintaining, or reconstructing historical landmarks, buildings, and furnishings that are of historical significance to the county. The foundation or organization must be incorporated under the law of this state as a nonprofit corporation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 100, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 972, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 96, eff. Sept. 1, 2001.

CHAPTER 319. HORTICULTURAL AND AGRICULTURAL EXHIBITS IN COUNTIES

Sec. 319.001. ANNUAL EXHIBITS. The commissioners court of a county may provide for annual exhibits of horticultural, agricultural, livestock, mineral, and other products that are of interest to the community.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 319.002. MUSEUMS, BUILDINGS, AND IMPROVEMENTS. To aid in the exhibition of products listed in Section 319.001, the commissioners court of a county may establish and maintain a museum, building, or other improvement in the county or at any other location in the United States at which a fair or exposition is being held.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 319.003. COOPERATIVE EFFORTS. (a) Two or more counties may cooperate with one another and a county may cooperate with local interests to construct the museum, building, or other improvement or to aid and share expenses in the exhibition of products listed in Section 319.001.

(b) A municipality, water improvement district, or water control and improvement district may cooperate with the commissioners court of a county for a purpose stated by Subsection (a) and may appropriate money to aid in the purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 319.004. CONTRACTS AND LEASES. (a) The commissioners court of a county may contract for the complete management of, and for the conducting, maintenance, use, and operation of, buildings, improvements, and exhibits authorized by this chapter or by Subchapter B, Chapter 1473, Government Code.

(b) The commissioners court may lease the buildings, improvements, or exhibits.

(c) A contract or lease made under this section must be evidenced by an order of the commissioners court and entered in the minutes of the court.

(d) The commissioners court may permit the use of a building, improvement, or exhibit for any public purpose the court determines to be of benefit to the county and its residents.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 68, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1420, Sec. 8.315, eff. Sept. 1, 2001.

Sec. 319.005. REVENUE. The commissioners court of a county may use the net revenue derived from the use of a building, improvement, or exhibit authorized by this chapter or by Subchapter B, Chapter 1473, Government Code, for the management, operation, maintenance, development, improvement, or promotion of activities authorized under this chapter or under Subchapter B, Chapter 1473, Government Code, or

for any other public purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 68, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1420, Sec. 8.316, eff. Sept. 1, 2001.

CHAPTER 320. PARK BOARD AND PARK BONDS: COUNTIES WITH POPULATION OF 5,000 OR MORE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 320.001. ELIGIBLE COUNTIES. The commissioners court of a county with a population of 5,000 or more by order may adopt this chapter for the purpose of acquiring, improving, equipping, maintaining, financing, and operating one or more public parks.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.002. DEFINITION. In this chapter, "board" means the board of park commissioners.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.003. CREATION OF PARKS BOARD. (a) The order adopting this chapter must specify whether the powers and duties provided by this chapter will be exercised and performed by the commissioners court or by a board of park commissioners to be created for that purpose.

(b) If a board is created, the commissioners court shall transfer to the board jurisdiction and control of the parks with respect to which the commissioners court adopted this chapter.

(c) The commissioners court may from time to time adopt this chapter with respect to one or more other parks and may appoint another board for those parks.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.004. EXERCISE OF POWERS BY COMMISSIONERS COURT. (a) If a board is not created, the commissioners court shall exercise the

powers and perform the duties of the board, and references in this chapter to the board are considered to be references to the commissioners court.

(b) If creation of a board is declared by a court to be invalid, the commissioners court shall exercise the powers and perform the duties of the board under this chapter, and the prior acts of the board are considered to have been acts of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. BOARD OF PARK COMMISSIONERS

Sec. 320.021. COMPOSITION; TERM; QUALIFICATIONS. (a) The board must be composed of seven members appointed by the commissioners court.

(b) Members of the board serve for terms of two years, with the terms of three or four members expiring February 1 of each year. In appointing the initial board, the commissioners court shall designate three members to serve for a term expiring February 1 following their appointment and four members to serve for a term expiring the next February 1. The commissioners court shall make the necessary appointments each January.

(c) A park commissioner must be a qualified voter of the county. A park commissioner may not be an officer or employee of the county or of a municipality in the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.022. VACANCY. A vacancy on the board shall be filled by appointment of the commissioners court for the unexpired term.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.023. OATH; BOND. (a) Within 15 days after the date a park commissioner is appointed, the commissioner must qualify by taking the official oath and by filing a good and sufficient bond with the county clerk.

(b) The bond must be:

(1) payable to the county judge;

(2) in an amount prescribed by the commissioners court of $5,000 or more; and

(3) conditioned that the commissioner will faithfully perform the duties of park commissioner, including the proper handling of all money that comes into the hands of the commissioner in the commissioner's capacity as park commissioner.

(c) The board shall pay the cost of the bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.024. CERTIFICATE OF APPOINTMENT. A certificate of appointment executed by the county judge and attested by the county clerk shall be filed in the office of the county clerk. The certificate is conclusive evidence of the proper appointment of the park commissioner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.025. ORGANIZATION; MEETINGS. (a) The board shall elect from its membership a chairman, vice-chairman, secretary, and treasurer, except that the first chairman of the board shall be designated by the commissioners court at the time of appointment of the first board. The member designated as the first chairman serves in that capacity until the expiration of the term to which the member was appointed or until the member vacates office during that term.

(b) The offices of secretary and treasurer may be held by the same person. If either the secretary or treasurer is absent or unavailable, the other may act for and perform the duties of the absent or unavailable officer.

(c) The board shall hold regular meetings at times to be fixed by the board and may hold special meetings as necessary.

(d) The board may act on the vote of a majority of a quorum.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.026. EXPENSES. A park commissioner is entitled to compensation for all necessary expenses, including travel expenses,

incurred in the performance of park commissioner duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.027. CONFLICT OF INTEREST. (a) A park commissioner or employee of the board may not acquire a direct or indirect pecuniary interest in any improvements, concessions, equipment, or business located in or related to a public park administered by the board.

(b) A park commissioner may not have a direct or indirect interest in a contract or proposed contract for construction, materials, or services in connection with or related to a park administered by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.028. SEAL. The board shall adopt a seal, and the seal shall be placed on each lease, deed, or other instrument usually executed under seal and on any other instrument as required by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 320.041. OPERATION AND MAINTENANCE OF PARKS. (a) Subject to the supervision of the commissioners court, the board shall maintain and operate the parks under its administration.

(b) The commissioners court may transfer to a previously created board jurisdiction and control of one or more additional parks if the transfer will not impair the contract rights of the holders of any outstanding revenue bonds.

(c) The board shall exercise its powers and perform its duties in respect to the additional parks in a manner that will not infringe on the rights of the holders of outstanding revenue bonds. The board may not operate or maintain the additional parks in a manner that will compete with or reduce the revenues of park properties or facilities the income of which has been pledged to the payment of outstanding revenue bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.042. PERSONNEL. (a) The board may employ permanent or temporary personnel, including secretaries, stenographers, bookkeepers, accountants, technical experts, and other agents.

(b) The board shall determine the qualifications, duties, and compensation of employees.

(c) The board may employ a manager for one or more parks. The board may give the manager full authority for the management and operation of parks, subject to the direction and orders of the board and the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.043. DEPOSITORIES AND DISBURSEMENTS; AUDITS. (a) The commissioners court shall select one or more depositories for funds belonging to or under the control of the board other than bond proceeds or revenues and funds pledged to the payment of revenue bonds. The commissioners court shall select the depositories on the basis of competitive bids substantially in the manner provided by law for county funds. The deposits must be secured substantially in the manner and amount prescribed by law for county funds.

(b) The county auditor shall maintain a current audit of the board's funds and shall prepare monthly and annual audit reports. The reports shall be filed with the commissioners court and with the board and must be available for public inspection at all reasonable times during office hours on business days.

(c) A warrant or check for the withdrawal of board funds must be signed by an officer of the board or, if designated by an order or resolution of the board, by a bonded employee of the board, and must be countersigned by the county auditor.

(d) The board may disburse funds under its control for any lawful purpose for the benefit of a park under its control.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.044. CONTRACTS. (a) The board may enter a contract, including a lease or other agreement, with any person as the board

considers necessary or convenient to carry out the purposes and powers granted by this chapter, including a contract connected with, incident to, or affecting the acquisition, financing, construction, equipment, maintenance, or operation of a facility located or to be located in or pertaining to a park under its control.

(b) A contract may be on terms and conditions and for the length of time as agreed to by the board.

(c) To be effective, a contract must be:

(1) authorized by order or resolution of the board;

(2) executed by the board chairman or vice-chairman;

(3) attested by the secretary or treasurer; and

(4) approved by the commissioners court.

(d) A contract is binding on the board and the county without reference to any other law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.045. RULES. Subject to the approval of the commissioners court, the board may adopt reasonable rules concerning the use of any park administered by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.0455. RULES IN CERTAIN COUNTIES; PENALTY FOR VIOLATIONS. (a) This section applies only to a county with a population of:

(1) 2.8 million or more;

(2) 800,000 or more that is adjacent to a county with a population of 2.8 million or more;

(3) more than 550,000 and less than 620,000; or

(4) less than 75,000 that is adjacent to three counties with populations of more than 450,000.

(b) Except as provided by Subsection (b-1), and subject to the approval of the commissioners court, the board may adopt reasonable rules concerning the use of any park administered by the board.

(b-1) A board created for a county described by Subsection (a)(2) or (a)(4) may not adopt rules relating to the use of fireworks.

(c) A person who violates a rule approved by the commissioners

court under Subsection (b) is liable to the county for a civil penalty of not more than $100 per violation. A county may bring suit in a district court or county court to recover a civil penalty authorized by this subsection.

(d) Fines collected under Subsection (c) shall be deposited in the county's general fund.

Added by Acts 1999, 76th Leg., ch. 1059, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1274 (H.B. 510), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 912 (H.B. 72), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 912 (H.B. 72), Sec. 2, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 164, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 905 (S.B. 2367), Sec. 1, eff. September 1, 2025.

Sec. 320.046. GRANTS. The board may accept grants and gratuities in any form and from any source approved by the board and the commissioners court, including the government of the United States, this state, a public or private corporation, or any other person, for the benefit of one or more parks administered by the board or for the use of the board with respect to one or more of those parks.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.047. FINANCIAL STATEMENT; BUDGET. (a) On or immediately after January 1 of each year, the board shall prepare and file with the commissioners court a complete financial statement showing the financial status of the board and the properties, funds, and indebtedness under the administration of the board.

(b) The financial statement must show separately all information concerning:

(1) revenue bonds;

(2) the gross revenues from properties or facilities the

net revenues of which are pledged to the payment of the revenue bonds and the expenditures from those gross revenues; and

(3) money appropriated by the county for operation and maintenance expenses.

(c) At the same time the financial statement is filed with the commissioners court, the board shall file with the county auditor:

(1) a copy of the financial statement; and

(2) a proposed budget for the board's needs for the current calendar year.

(d) In counties subject to Subchapter B, Chapter 111, the county auditor shall include the proposed budget as part of the county budget prepared and submitted to the commissioners court.

(e) The board shall operate the properties and facilities the net revenues of which are pledged to the payment of revenue bonds in a manner that will produce gross revenues sufficient to pay the operation and maintenance expenses and all payments required under the bond order, so that it is unnecessary to appropriate tax money for the operation and maintenance or for the revenue bond payments.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.048. SUITS; LEGAL SERVICES. (a) The board may sue and be sued in its own name.

(b) The county attorney shall perform all necessary legal services for the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.049. RECORDS. The board shall keep a complete account of each board meeting and proceeding and shall maintain the records of the board in a secure manner. The records are the property of the board and are subject to inspection by the commissioners court and other county officers at all reasonable times during office hours on business days. The preservation, microfilming, destruction, or other disposition of the records of the board is subject to the requirements of Subtitle C, Title 6, Local Government Code, and rules adopted under that subtitle.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1248, Sec. 61, eff. Sept. 1, 1989.

Sec. 320.050. SUPERVISION BY COMMISSIONERS COURT. (a) Notwithstanding any other provision of this chapter, the board is subject to the supervision of the commissioners court in the exercise of all rights, powers, and privileges and in the performance of all duties.

(b) The commissioners court must approve all contracts, leases, deeds, and other agreements made or granted by the board. An appropriate entry in the minutes of the commissioners court is sufficient evidence of approval.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. REVENUE BONDS

Sec. 320.071. ISSUANCE; PURPOSE. (a) For the purpose of providing funds to acquire, improve, equip, and repair any park administered by the board, or for the acquisition by construction or otherwise of any facilities to be used in or connected with or incident to such a park, the county may from time to time issue revenue bonds.

(b) The bonds are fully negotiable instruments under Chapter 3, Business & Commerce Code, and other laws of this state.

(c) Included among the properties, improvements, and facilities that may be acquired through the issuance of bonds are stadiums, coliseums, auditoriums, athletic fields, pavilions, and buildings and grounds for assembly, including parking facilities or other improvements incident to those facilities.

(d) The bonds must be authorized by an order adopted by the commissioners court.

(e) The bonds must be issued in the name of the county, signed by the county judge, attested by the county clerk, and impressed with the seal of the commissioners court. The signature of the county judge or the signature of the county clerk may be a facsimile signature, and the seal of the commissioners court may be a facsimile seal, as provided in the bond order. The interest coupons attached to the bonds may also be executed by facsimile signatures of officers. A facsimile signature or facsimile seal may be

lithographed, engraved, or printed.

(f) Revenue bonds must mature serially or otherwise in not more than 40 years from their date or dates and may be sold by the commissioners court at a price and under terms determined by the court to be the most advantageous reasonably obtainable. The net effective interest rate may not exceed the maximum rate provided by Chapter 1204, Government Code.

(g) The bond order shall prescribe the details as to the bonds. It may contain provisions for the calling of the bonds for redemption before the respective maturity dates at particular prices and times. Except for rights of redemption expressly reserved in the bond order and in the bonds, the bonds are not subject to redemption before their scheduled maturity date or dates without the consent of the holder or holders.

(h) The bonds may be made payable at times and places in or outside this state, as prescribed in the bond order. The bonds may be nonregistrable or may be made registrable as to principal, or both principal and interest, as provided in the bond order.

(i) The bonds may be issued in one or more installments and in one or more series.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.317, eff. Sept. 1, 2001.

Sec. 320.072. ELECTION. (a) Revenue bonds may not be issued unless authorized by a majority vote of the qualified voters of the county voting at an election ordered for that purpose by the commissioners court.

(b) The election shall be ordered and held, and notice of the election shall be given, as provided by Chapter 1251, Government Code, except that the ballot shall be printed to provide for voting for or against the proposition: "The issuance of $_____ in park revenue bonds payable solely from revenues."

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.318, eff. Sept. 1, 2001.

Sec. 320.073. PLEDGE OF REVENUES. (a) Revenue bonds may be secured by a pledge of all or part of the net revenues from the

operation of the parks or from the properties or facilities. The net revenues of any one or more contracts, operation contracts, leases, or agreements may be pledged as the sole or as additional security for the support of the bonds.

(b) Any revenue other than tax revenues, as specified in the bond order, may be pledged for the support of the bonds.

(c) In the bond order, the county may reserve the right to issue additional revenue bonds that will be on a parity with, or subordinate to, the revenue bonds then being issued.

(d) While any of the revenue bonds are outstanding, other obligations may not be issued against the pledged revenues except to the extent and in the manner expressly permitted in the bond order.

(e) In this subchapter, "net revenues" means the gross revenues from the operation of those properties and facilities of the parks, the net revenues of which properties and facilities are pledged for the support of the bonds, after deduction of the necessary and reasonable expenses of operation and maintenance of the properties and facilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.074. PROCEEDS. (a) The proceeds of the bonds shall be used under the restrictions provided in the bond order or in any separate escrow agreement, or both. The holders of the bonds and any trustee provided for in respect to the bonds have a lien on the proceeds until so applied.

(b) From the bond proceeds, there may be set aside:

(1) an amount for payment of interest on the bonds during construction and any additional period prescribed in the bond order; and

(2) an amount for the interest and sinking fund or for one or more separate reserve funds, as prescribed in the bond order, for the benefit of payment of the bonds.

(c) Proceeds remaining after the amounts are set aside under Subsection (b) shall be used for the payment of all expenses necessarily incurred in the sale, issuance, and delivery of the bonds and then for the purposes specified in the bond order and in the bonds.

(d) Any surplus remaining after accomplishment of the bond

purposes shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices, with any remainder being deposited to the credit of the interest and sinking fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.075. APPROVAL AND REGISTRATION. (a) After any bonds have been authorized by the commissioners court, the bonds and the records relating to their issuance shall be submitted to the attorney general for examination and approval. The attorney general shall approve the bonds if issued in accordance with this subchapter.

(b) After the bonds have been approved by the attorney general, they shall be registered by the comptroller of public accounts.

(c) When the bonds have been approved by the attorney general, registered by the comptroller, and delivered to the purchasers, they are incontestable.

(d) If the bonds recite that they are secured partially or otherwise by a pledge of the proceeds of or income from any contract, including a lease or other agreement, a copy of the contract and of the records of the proceedings authorizing the contract may be submitted to the attorney general with the bond record. In that event, the approval of the bonds by the attorney general constitutes an approval of the contract, and the contract is incontestable except for forgery or fraud.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.076. FEES AND REVENUE. (a) In this section, "fee" includes any fee, charge, or toll.

(b) The necessary and reasonable expenses of operation and maintenance of the properties and facilities whose revenues are pledged to the payment of the revenue bonds are a first lien on and charge against the income of the properties and facilities. While any of the bonds or interest remains outstanding, the board shall charge and require the payment of fees for the use of the properties and facilities. The board shall determine the rates of fees charged by it for the use, operation, or lease of the properties and facilities. Fees must be equal and uniform within classes and must be in amounts that yield revenues at all times at least sufficient to

pay the expenses of operation and maintenance, and to provide for the payments prescribed in the bond order for the establishment and maintenance of the funds provided for in the bond order, including the interest and sinking fund and each reserve fund. The bond order may make additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those properties and facilities, the income of which is pledged.

(c) The commissioners court shall ensure that the fees charged by the board are sufficient to comply with this subchapter. If for any reason the fees are not sufficient, the commissioners court shall impose additional fees so that the revenue will be sufficient.

(d) If any part of the security for the bonds consists of money to be received by the board as consideration for properties or facilities belonging to the county but operated by a person other than the board under a lease or operating contract, the board shall fix and authorize fees to be charged by the person for services rendered by the properties or facilities. The fees must be in amounts at least sufficient to assure receipt by the board of money that the board is committed to pay from that source for the benefit of the revenue bonds under the bond order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.077. REFUNDING BONDS. (a) The commissioners court may issue fully negotiable revenue bonds for the purpose of refunding bonds issued under this subchapter. An election is not necessary for the issuance of refunding bonds.

(b) The refunding bonds may be secured in the manner provided by this subchapter for securing original revenue bonds.

(c) Refunding bonds may be issued to refund bonds of more than one series or issue of outstanding revenue bonds and may combine pledges for the outstanding bonds for the security of the refunding bonds. Refunding bonds may be secured by other and additional revenues if the refunding bonds will not impair the contract rights of the holders or any of the outstanding bonds that are not to be refunded.

(d) Refunding bonds must be authorized by order of the commissioners court and shall be executed and mature as provided by this subchapter for original bonds.

(e) Refunding bonds must bear interest at the same or lower rate than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

(f) Refunding bonds shall be approved by the attorney general as in the case of original bonds and shall be registered by the comptroller of public accounts on surrender and cancellation of the bonds to be refunded, unless the order authorizing issuance provides that the bonds are to be sold and the proceeds deposited in the place or places where the original bonds are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option or maturity date, and the comptroller shall register them without the surrender and cancellation of the original bonds.

(g) Refunding bonds, after they have been approved by the attorney general and registered by the comptroller, are incontestable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.078. BONDS NOT STATE OR COUNTY DEBT. (a) The revenue bonds are not a debt of the county or of the state but are payable solely from the revenues pledged to their payment.

(b) The principal of or interest on revenue bonds or any refunding bonds is not a debt against the tax revenues of the county but is solely a charge on the pledged revenues.

(c) The revenue bonds or refunding bonds may not be considered in determining the power of the county to incur obligations payable from taxation.

(d) Each bond must contain on its face substantially the following provision: "The holder hereof shall never have the right to demand payment of his obligation out of any funds raised or to be raised by taxation."

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 320.079. MISCELLANEOUS PROVISIONS. (a) This section applies to revenue bonds and refunding bonds issued under this subchapter.

(b) The bond order may require that the bonds contain a recital to the effect that they are issued pursuant to and in strict conformity with this subchapter. That recital is conclusive evidence of the validity of the bonds and the regularity of their issuance.

(c) Each bond is exempt from taxation by this state or by a municipal corporation, county, or other political subdivision or taxing district or entity of the state.

(d) If provided for in the bond order, an indenture securing the bonds may be entered into between, and executed by, the county and a corporate trustee, or entered into between, and executed by, the county and a corporate trustee and a corporate or individual cotrustee. A corporate trustee or corporate cotrustee must be a trust company or bank in or outside this state that has the powers of a trust company.

(e) The bond order or any indenture may:

(1) contain provisions for protecting or enforcing the rights or remedies of the bondholders as the commissioners court considers reasonable and proper and not in violation of law, including covenants setting forth the duties of the county and the board in reference to maintenance, operation, repair, and insurance (including insurance against loss of use and occupancy) of the properties or facilities whose revenues are pledged, and the custody, safeguarding, and application of the bond proceeds and of the revenues to be received from the operation of the properties or facilities;

(2) provide for the flow of funds and the establishment and maintenance of the interest and sinking fund, reserve fund or funds, and other funds; and

(3) include additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those properties and facilities the income of which is pledged, as the commissioners court considers appropriate.

(f) Any bank or trust company in this state may act as depository for the proceeds obtained from the sale of the bonds. The depository shall be selected by the commissioners court without the necessity of seeking competitive bids and without reference to any other statute. The money deposited must be secured in the manner and amount as prescribed by the commissioners court or by the bond order, indenture, or separate escrow agreement.

(g) The bond order shall provide for and designate the

depository or depositories of the interest and sinking fund, reserve fund or funds, and any other funds established by the order. The depository or depositories may be any bank or trust company in or outside this state and may be selected and designated without the necessity of seeking competitive bids and without reference to any other statute. The money in those funds must be secured in the manner and to the extent as provided in the bond order, and the bond order may require that the money be secured by direct obligations of the United States or obligations unconditionally guaranteed by the United States.

(h) The bond order or indenture may:

(1) set forth the rights and remedies of the bondholders and of the trustee, and may, subject to Subsection (i), restrict the individual rights of action of the bondholders; and

(2) set forth and contain other provisions and covenants as considered reasonable and proper for the security of the bondholders, including:

(A) provisions prescribing occurrences that constitute events of default and the terms and conditions on which any or all of the bonds become due, or may be declared to be due, before maturity; and

(B) provisions as to the rights, liabilities, powers, and duties arising from the breach by the board or by the commissioners court of any of its duties or obligations.

(i) Any holders of the bonds or of interest coupons originally attached to the bonds may either at law or in equity, by suit, action, mandamus, or other proceeding, enforce and compel performance of all duties required by this subchapter to be performed by the board or by the commissioners court, including:

(1) the making and collection of reasonable and sufficient fees, charges, and tolls for the use of the properties and facilities the income of which is pledged;

(2) the segregation of the income and revenues of such properties and facilities; and

(3) the application of the income and revenues pursuant to the bond order, indenture, and this subchapter.

(j) The bond order or the indenture may contain provisions to the effect that while any bonds are outstanding either as to principal or interest, no free service may be rendered by any of the properties or facilities the income of which is pledged.

(k) The bonds are negotiable instruments under Chapter 3, Business & Commerce Code, and are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of municipalities, counties, school districts, and other political subdivisions or corporations of this state. The bonds are eligible to secure the deposit of public funds of this state and of a municipality, county, school district, or other political subdivision or corporation of this state. The bonds are lawful and sufficient security for those deposits to the extent of their face value when accompanied by all unmatured appurtenant coupons.

(l) The bond order, the indenture, and this subchapter constitute an irrevocable contract between the board and commissioners court and the holders of the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 321. ISLAND PARKS, BEACH PARKS, AND PUBLIC BEACHES OF COASTAL COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 321.001. ELIGIBLE COUNTIES. (a) A county that borders on the Gulf of Mexico and that has within its boundaries one or more islands or parts of islands suitable for park purposes may act under this chapter for the purpose of improving, equipping, maintaining, financing, and operating one or more parks on those islands.

(b) The suitability of an island or part of an island for park purposes is conclusively established when the commissioners court of the county by order makes a finding that the island or part of an island is suitable for park purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.002. DEFINITION. In this chapter, "board" means the board of park commissioners.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.003. CREATION OF PARKS BOARD. The commissioners court by order may create a board to be known as the Board of Park Commissioners.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.004. EXERCISE OF POWERS BY COMMISSIONERS COURT. (a) If the commissioners court has not attempted to create a board, or if the creation of a board is declared by a court to be invalid, the commissioners court may exercise the powers and perform the duties of the board under this chapter. The commissioners court may ratify the actions taken by a board before the declaration of the board's invalidity.

(b) This section does not authorize the commissioners court to limit or restrict the board from exercising the powers conferred on the board by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. BOARD OF PARK COMMISSIONERS

Sec. 321.021. COMPOSITION; TERM; QUALIFICATIONS. (a) The board must be composed of seven commissioners appointed by the county judge with the approval of the commissioners court.

(b) A commissioner serves for a term of two years from the date of appointment.

(c) A park commissioner may not be an officer or employee of the county or of a municipality in the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.022. VACANCY. A vacancy on the board shall be filled by appointment of the county judge for the unexpired term.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.023. OATH; BOND. (a) Within 15 days after the date a park commissioner is appointed, the commissioner must qualify by

taking the official oath and by filing a good and sufficient bond with the county clerk.

(b) The bond must be:

(1) payable to the order of the county judge;

(2) approved by the commissioners court;

(3) in an amount prescribed by the commissioners court of $5,000 or more; and

(4) conditioned that the commissioner will faithfully perform the duties of park commissioner, including the proper handling of money that comes into the hands of the commissioner in the commissioner's capacity as park commissioner.

(c) The board shall pay the cost of the bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.024. CERTIFICATE OF APPOINTMENT. A certificate of appointment executed by the county judge and attested by the county clerk shall be filed with the county clerk. The certificate is conclusive evidence of the proper appointment of the commissioner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.025. ORGANIZATION; MEETINGS. (a) The board shall elect from its membership a chairman, vice-chairman, secretary, and treasurer, except that the first chairman shall be designated by the county judge at the time of appointment of the first board. The member designated as the first chairman serves in that capacity until the expiration of the term to which the member was appointed or until the member vacates office during that term.

(b) The offices of secretary and treasurer may be held by the same person. If either the secretary or treasurer is absent or unavailable, the other may act for and perform the duties of the absent or unavailable officer.

(c) The board shall hold regular meetings at times to be fixed by the board and may hold special meetings as necessary.

(d) The board may act on the majority vote of a quorum.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.026. EXPENSES. A park commissioner's approved compensation and expenses shall be paid in due time by the board's check or warrant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.027. CONFLICT OF INTEREST. (a) A park commissioner or employee of the board may not acquire a direct or indirect pecuniary interest in any improvements, concessions, equipment, or business located in a park administered by the board.

(b) A park commissioner or employee of the board may not have a direct or indirect interest in any contract or proposed contract for construction, materials, or services in connection with or related to a park administered by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.028. SEAL. The board shall adopt a seal, and the seal shall be placed on each lease, deed, or other instrument usually executed under seal and on other instruments as required by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 321.041. PERSONNEL. (a) The board may employ permanent or temporary personnel, including secretaries, stenographers, bookkeepers, accountants, technical experts, and other agents.

(b) The board shall determine the qualifications, duties, and compensation of employees.

(c) The board may employ a manager for one or more parks and give the manager full authority for the management and operation of the parks subject only to the direction and orders of the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.042. DEPOSITORIES AND DISBURSEMENTS. (a) Money

belonging to or under control of the board shall be deposited and secured in substantially the manner prescribed by law for county funds.

(b) The board shall select one or more depositories.

(c) A warrant or check for the withdrawal of money must be signed by an officer of the board and one other commissioner or by two bonded employees of the board. The board by resolution entered in its minutes shall designate any employees authorized to sign a check or warrant.

(d) The board may disburse funds under its control for any lawful purpose for the benefit of a park under its control.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.043. CONTRACTS. (a) The board may without advertisement enter into a contract, including a lease or other agreement, with any person as the board considers necessary or convenient to carry out the purposes and powers granted by this chapter, including a contract connected with, incident to, or affecting the acquisition, financing, construction, equipment, maintenance, or operation of a facility located or to be located in or pertaining to a park under its control.

(b) To be effective, a contract must be:

(1) approved by resolution of the board;

(2) executed by the chairman or vice-chairman; and

(3) attested by the secretary or treasurer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.044. LEASES AND OPERATING AGREEMENTS. (a) Concurrent with or at any time before the authorization for issuance of bonds secured by a pledge of the revenues of a designated facility of a park, the board may enter into a contract, including a lease, with any person for the operation of the facility. The contract must specify the consideration or specify the method of determining the consideration. The contract may be for a period determined by the board.

(b) The revenues from the contract may be pledged in the resolution or indenture as security or additional security for the

revenue bonds. If the contract is concurrent with the authorization for issuance of the bonds, the revenues constitute the sole or substantially all the security for the bonds.

(c) The contract must require that the rentals, tolls, and charges to be enforced by the lessee for the use or services provided by the facility be sufficient to yield at least in the aggregate money necessary to pay the reasonable operation and maintenance expenses to assure proper operation and maintenance of the facility, plus an amount that will assure income to the board to permit and assure payments into the funds and accounts in the manner, at the times, and in the amounts specified in the resolution.

(d) The contract may provide that the rentals, tolls, and charges may be sufficient to yield a reasonable profit to the other party to the contract, but to be realized only after payment in full of the obligation to the board.

(e) The contract may provide for payment of the annual consideration or rental in approximately equal monthly installments, and that failure to pay any required payment when due may be declared to be a breach of contract entitling the board under rules prescribed in the contract to declare the contract forfeited and to take over the operation and maintenance of the facility. That remedy is cumulative of all others.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.045. RULES. The board may adopt reasonable rules applicable to tenants, concessioners, residents, and users of park facilities regulating hunting, fishing, boating, camping, and all other recreational and business privileges in the parks under the control of the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.046. GRANTS. The board may accept grants and gratuities in any form from any source approved by the board, including the government of the United States, this state, a public or private corporation, or any other person, for the purpose of promoting, establishing, or accomplishing the objectives, purposes, and powers provided by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.047. FINANCIAL STATEMENT; BUDGET. (a) On or before July 1 of each year, the board shall prepare and file with the county judge a complete financial statement showing the financial status of the board and the board's properties, funds, and indebtedness.

(b) The financial statement must be in two parts or prepared to show separately all information concerning:

(1) revenue bonds, the pledged income from facilities, and expenditures of that revenue; and

(2) money appropriated to the board by the commissioners court and realized from taxation and money realized from the sale of tax-supported bonds previously issued by the commissioners court.

(c) At the same time the financial statement is filed, the board shall file with the county judge a proposed budget of its needs for the next calendar year. To the extent that the board is able to finance its operations and to maintain its property from the revenues of facilities the income of which is pledged to the revenue bonds, no approval or authorization of the commissioners court is necessary. However, the budget may involve only anticipated supplemental expenditures.

(d) The county judge shall incorporate the requested budget in the county budget to be prepared each year. As part of the county's tentative budget, the items certified by the board are subject to the procedure for county budget prescribed by Chapter 111.

(e) The board shall operate the parks under its control the revenues of which are pledged to the payment of bonds in a manner that will produce gross revenues sufficient to pay the operation and maintenance expenses of the facilities without seeking from the commissioners court the appropriation of additional money for those expenses.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.048. SUITS; LEGAL SERVICES. (a) The board may sue and be sued in its own name.

(b) The board may request from the county attorney the legal services it requires. In addition or in the alternative, the board

may employ and compensate its own legal staff.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.049. RECORDS. The board shall keep a complete account of each board meeting and proceeding and shall maintain the records of the board in a secure manner. Those records are the property of the board and are subject to inspection by the commissioners court at all reasonable times during office hours on business days. The preservation, microfilming, destruction, or other disposition of the records of the board is subject to the requirements of Subtitle C, Title 6, Local Government Code, and rules adopted under that subtitle.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 62, eff. Sept. 1, 1989.

SUBCHAPTER D. REVENUE BONDS

Sec. 321.071. ISSUANCE; PURPOSE. (a) For the purpose of providing funds for the acquisition of permanent improvements to the island parks, or for the acquisition or construction of facilities to be used in or connected with or incident to the parks, the county may issue revenue bonds from time to time.

(b) The bonds are fully negotiable instruments under Chapter 3, Business & Commerce Code, and other laws of this state.

(c) Included among the permanent improvements and facilities that may be acquired through the issuance of bonds are bath houses; bathing beaches; swimming pools; athletic fields; golf courses; stadiums; coliseums; auditoriums; pavilions; buildings and grounds for assembly, entertainment, health, and recreation; restaurants and refreshment places; yacht basins; and landing strips and airports.

(d) The bonds must be authorized by order of the commissioners court passed on its own motion. The order of the commissioners court may make covenants on behalf of the county as the court considers necessary and advisable, and the court shall perform or cause to be performed any covenants so made.

(e) The bonds must be issued in the name of the county, signed by the county judge, attested by the county clerk, and impressed with

the seal of the commissioners court.

(f) The bonds must mature serially or otherwise in not more than 40 years and may be sold at a price and under terms determined by the county to be the most advantageous reasonably obtainable. The net effective interest rate may not exceed the maximum rate provided by Chapter 1204, Government Code.

(g) The order authorizing the issuance of the bonds shall prescribe the details as to the bonds. It may contain provisions for the calling of the bonds for redemption before their respective maturity dates at particular prices and times. Except for rights of redemption expressly reserved in the order and the bonds, the bonds are not subject to redemption before their scheduled maturity dates.

(h) The bonds may be made payable at times and places inside or outside this state as prescribed in the order.

(i) The bonds may be made registrable as to principal or both principal and interest.

(j) The bonds may be issued in one or more series.

(k) An election is not required for issuance of the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.319, eff. Sept. 1, 2001.

Sec. 321.072. PLEDGE OF REVENUES. (a) Revenue bonds may be secured by a pledge of all or part of the net revenues from the operation of one or more parks under control of the board, from the facilities of or incident to the parks, or from the parks and the facilities.

(b) The net revenues of one or more contracts, operating contracts, leases, or agreements may be pledged as the sole security or as additional security for the support of the bonds.

(c) Any revenue other than that described by Subsection (a) or (b) may be pledged as the principal or as additional security for the bonds, as specified in the order.

(d) The order authorizing issuance of bonds may reserve the right, under conditions specified in the order, to issue additional bonds that will be on a parity with or subordinate to the bonds then being issued.

(e) While any bonds are outstanding, no additional bonds of equal dignity may be issued against the pledged revenues except to

the extent and in the manner expressly permitted in the order.

(f) In this chapter, "net revenues" means the gross revenues from the operation of the park or parks and the facilities, leases, agreements, or contracts incident to the park or parks, the revenues of which have been pledged, after deduction of the necessary expenses as provided by Section 321.075.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.073. PROCEEDS. (a) The proceeds of the bonds shall be used under the restrictions provided in the order. The holders of the bonds and any trustee provided for in respect to the bonds have a lien on the proceeds until so applied, but neither the depository of those funds nor the trustee is obligated to see to the proper application of the funds except as expressly provided in the order or the indenture securing the bonds.

(b) From the bond proceeds there may be set aside:

(1) an amount for payment of interest on the bonds estimated to accrue during the construction period and any additional period prescribed in the order; and

(2) an amount for the interest and sinking fund or another reserve fund provided for in the order.

(c) Proceeds remaining after the amounts are set aside under Subsection (b) shall be used for the payment of all expenses necessarily incurred in the issuance and sale of the bonds and then for the purposes specified in the bond order and in this chapter.

(d) Any surplus remaining after accomplishment of the bond purposes shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices, with any remainder being deposited to the credit of the fund established in the order for debt service.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.074. APPROVAL AND REGISTRATION. (a) Before the bonds are delivered to the purchaser, the bonds and the records pertaining to the bonds must be submitted to the attorney general for examination and approval. The attorney general shall approve the bonds if issued in accordance with this subchapter.

(b) Bonds approved by the attorney general and registered with the comptroller of public accounts are incontestable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.075. FEES AND REVENUE. (a) In this section, "fee" includes any fee, charge, or toll.

(b) The expense of operation and maintenance of facilities the revenues of which are pledged to the payment of bonds are a first lien on and charge against the income of the facilities. While any of the bonds or interest remains outstanding, the board shall charge or require the payment of fees for the use of the facilities. The board shall determine the rate of fees charged by it for the use, operation, or lease of the facilities. Fees must be equal and uniform within the classes defined by the board and must be in amounts that will yield revenues at least sufficient to pay the expenses of operation and maintenance and to make the payment prescribed in the order for debt service. "Debt service," as defined in the order, may include the payment of principal and interest as each matures, the establishment and maintenance of funds for extensions and improvements, an operating reserve, and an interest and sinking fund reserve.

(c) The board shall fix the fees in amounts that are sufficient to comply with the covenants in the order and with this chapter.

(d) If part of the security for the bonds consists of money to be received by the board as consideration for facilities belonging to the board but operated by a person other than the board under a lease or operating contract, the board shall fix the fees to be charged by the person for use of and services rendered by the facilities. The fees must be in amounts at least sufficient to assure receipt by the board of money that the board is committed to pay from that source for debt service under the terms of the order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.076. REFUNDING BONDS. (a) Fully negotiable bonds may be issued by the commissioners court for the purpose of refunding original bonds issued under this subchapter.

(b) The refunding bonds must be authorized and may be secured

in the manner provided by this subchapter for original bonds.

(c) Refunding bonds may be sold and the proceeds used to retire the original bonds, or may be used in exchange for the original bonds, as provided in the order authorizing their issuance.

(d) An election is not required for issuance of the refunding bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.077. BONDS NOT STATE OR COUNTY DEBT. (a) The bonds are not a debt of the county or this state within the meaning of any constitutional or statutory provision, but are payable solely from the revenues pledged to their payment as provided by this subchapter.

(b) Each bond must contain on its face substantially the following provision: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

(c) The bonds may not be considered in determining the power of the county to incur obligations payable from taxation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.078. MISCELLANEOUS PROVISIONS. (a) In this section, "fee" includes a fee, charge, or toll.

(b) This section applies to revenue bonds issued under this subchapter.

(c) The bond order may require that the bonds contain a recital that they are issued pursuant to and in strict conformity with this subchapter. If made, that recital is conclusive evidence of the validity of the bonds and the regularity of their issuance.

(d) Each bond is exempt from taxation by this state or by a municipal corporation, county, or other political subdivision or taxing district of the state.

(e) If provided for in the order, an indenture securing the bonds may be executed between the county commissioners court and a corporate trustee. The order may also provide for execution of the indenture by a corporate or individual cotrustee. A corporate trustee or corporate cotrustee must be a trust company or a bank located inside or outside this state that has the powers of a trust

company.

(f) Either the order or an indenture may contain provisions for protecting or enforcing the rights or remedies of the bondholders as considered by the commissioners court to be reasonable, proper, and not in violation of law. The provisions may include covenants setting forth the duties of the board in reference to the maintenance, operation or repair, and insurance of the facility the revenues of which are pledged, including within the discretion of the commissioners court insurance against loss of use and occupancy. The provisions may also include covenants for the custody, safeguarding, and application of money received from the sale of the bonds and from the revenues received from the operation of the project.

(g) Any bank or trust company in this state may act as depository for the proceeds of the bonds, the revenues derived for operation of the facilities the revenues of which are pledged, or for the special funds created to assure payment of the principal of and interest on the bonds, including reserve funds and accounts. The depository may furnish indemnity bonds or pledge securities as required by the board.

(h) The commissioners court may select the depository or depositories without the necessity of seeking competitive bids. The deposits must be secured in the manner required by law for the security of county funds. The order or indenture may bind the commissioners court to the use of direct obligations of the United States or obligations unconditionally guaranteed by the United States as security for the deposits.

(i) The bond order or indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual rights of action of the bondholders. The order may contain other suitable provisions the commissioners court considers reasonable and proper for the security of the bondholders, including:

(1) covenants prescribing occurrences that constitute events of default and the terms and conditions on which any or all of the bonds become due, or may be declared to be due, before maturity; and

(2) covenants as to the rights, liabilities, powers, and duties arising from the breach by the commissioners court of any of its duties or obligations.

(j) Any bondholder or a trustee for a bondholder may by mandamus or other proceeding in a court of competent jurisdiction

enforce the bondholder's rights against the commissioners court or its agents and employees or against any lessee of any facility the revenues of which are pledged to the bonds. These rights include the right to require the board to impose, establish, and enforce fees sufficient and effective to carry out the agreements contained in the order or indenture, the right to perform all agreements and covenants in the order and the duties arising from the order or indenture, and the right in the event of default as defined in the order or indenture to apply for and obtain the appointment of a receiver for any of the properties involved. If a receiver is appointed, the receiver shall enter and take possession of the facilities the revenues of which have been pledged. The receiver shall retain possession until the commissioners court is no longer in default or until relieved by a court, and shall collect and receive all revenues and fees arising from the retained property in the same manner as the commissioners court. The receiver shall dispose of and apply the money in accordance with the obligations of the commissioners court under the order or indenture and as the court may direct.

(k) This chapter does not authorize a bondholder to require the commissioners court to use any funds in the payment of the principal of or interest on the bonds except the revenues pledged for that payment.

(l) The order or indenture may contain provisions to the effect that while the revenues of the park facilities are pledged to the payment of bonds, no free service may be rendered by any of those facilities for which fees are to be effective under the order.

(m) The bonds are legally authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, and trustees and for the sinking funds and other funds of this state or of a municipal corporation, county, political subdivision, public agency, or taxing district in this state. The bonds are eligible to secure the deposit of any public funds of this state and any public funds of a municipal corporation, county, political subdivision, public agency, or taxing district in this state, and the bonds are lawful and sufficient security for those deposits to the extent of their face value when accompanied by all unmatured appurtenant coupons.

(n) The order, the indenture, and this chapter constitute an irrevocable contract between the board and county and the bondholders.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. COASTAL COUNTY ISLAND PARK, BEACH PARK, AND PUBLIC BEACH RULES

Sec. 321.101. APPLICABILITY. Notwithstanding Section 321.001, this subchapter applies only to:

(1) a county described by Section 321.001; and

(2) a county that borders on the Gulf of Mexico and has within its boundaries a beach that:

(A) is wholly or partly operated by the county as a park; or

(B) is otherwise controlled or maintained by the county.

Added by Acts 2019, 86th Leg., R.S., Ch. 226 (H.B. 1628), Sec. 1, eff. September 1, 2019.

Sec. 321.102. RULES. The commissioners court of a county by order may adopt reasonable rules on camping, access, litter, resource protection, or waste disposal if the rules:

(1) are consistent with Chapter 352 of this code, Chapters 61 and 63, Natural Resources Code, and rules adopted under those chapters; and

(2) apply only in the following locations controlled or maintained by the county:

(A) an island park;

(B) a beach park; or

(C) any part of a public beach.

Added by Acts 2019, 86th Leg., R.S., Ch. 226 (H.B. 1628), Sec. 1, eff. September 1, 2019.

Sec. 321.103. OFFENSE. (a) A person commits an offense if the person violates a rule adopted under Section 321.102.

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 2019, 86th Leg., R.S., Ch. 226 (H.B. 1628), Sec. 1, eff. September 1, 2019.

CHAPTER 322. JOINT PARKS BOARD AND PARK BONDS: ADJACENT COUNTIES WITH POPULATIONS OF 2.1 MILLION OR MORE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 322.001. ELIGIBLE COUNTIES. Two adjacent counties that each have a population of 2.1 million or more may create a joint park board in accordance with this chapter for the purpose of providing one or more public parks for the two counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 97, eff. Sept. 1, 2001.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 166, eff. September 1, 2023.

Sec. 322.002. DEFINITION. In this chapter, "board" means the Joint Board of Park Commissioners.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.003. CREATION OF JOINT PARKS BOARD. (a) To create a joint parks board, the commissioners court of each county must adopt an order creating the board.

(b) The commissioners court of each county by resolution may transfer to the board jurisdiction and control of any county park within either or both of the counties.

(c) Title to the parks under its jurisdiction and to the properties and facilities related to the parks vests in the board.

(d) The board shall be known as the Joint Board of Park Commissioners, except that the board may change its name by resolution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.004. MUNICIPAL CONVEYANCE OF LAND TO BOARD. Any municipality contained in either of the counties may sell land owned by it to the board or to the counties if the governing body of the

municipality finds that the land is not required for municipal purposes. The sale must be authorized by ordinance and does not require an election.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.005. EXERCISE OF POWERS BY COMMISSIONERS COURT. If establishment of the board is declared by a court to be invalid, the commissioners court of the counties acting jointly may ratify any prior action taken by the board and may exercise the powers granted to the board by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. JOINT BOARD OF PARK COMMISSIONERS

Sec. 322.021. COMPOSITION; TERM; QUALIFICATIONS. (a) The board must be composed of 13 commissioners appointed by the governor with the advice and consent of the senate. The governor shall appoint the chairman from one county and six members from each county.

(b) Members of the board serve staggered terms of two years, with the terms of six or seven members expiring every other year. In appointing the initial board, the governor shall designate three of the members appointed from each county to serve for terms of one year and three of the members appointed from each county to serve for terms of two years.

(c) The term as chairman is two years, and the chairmanship of the board alternates between the counties every two years. The governor shall appoint the first chairman from the county having the larger population.

(d) A park commissioner may not be an officer or employee of either of the counties or an officer or employee of any municipality in either of the counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.022. VACANCY. A vacancy on the board shall be filled by appointment by the governor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.023. OATH; BOND. (a) Within 15 days after the date a park commissioner is appointed, the commissioner must qualify by taking the official oath and by filing a good and sufficient bond with the county clerk of the county the commissioner represents.

(b) The bond must be:

(1) payable to the order of the county judge of the county that the commissioner represents;

(2) approved by the commissioners court of that county;

(3) in an amount prescribed by that commissioners court of $5,000 or more; and

(4) conditioned that the commissioner will faithfully perform the duties of park commissioner, including the proper handling of all money that comes into the hands of the park commissioner in the commissioner's capacity as park commissioner.

(c) The board shall pay the cost of the bond.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.024. ORGANIZATION; MEETINGS. (a) Seven park commissioners constitute a quorum, except that three of the members comprising the quorum must be from each county. The board may act on the majority vote of a quorum.

(b) The board shall elect from its membership a vice-chairman, a secretary, and a treasurer. The vice-chairman and chairman must be from different counties, and the secretary and treasurer must be from different counties. Officers serve in that capacity for a term of two years.

(c) If either the secretary or treasurer is absent or unavailable, the other may act for the absent or unavailable officer.

(d) The board shall hold regular meetings at times fixed by the board and may hold special meetings as necessary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.025. EXPENSES. The expenses of a commissioner must be approved by the commissioners court of the county the commissioner

represents, and when approved must be paid in due time by the board's check or warrant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.026. CONFLICT OF INTEREST. (a) A park commissioner or employee of the board may not acquire a direct or indirect pecuniary interest in any improvements, concessions, equipment, or business located in or related to a public park administered by the board.

(b) A park commissioner or employee of the board may not have a direct or indirect interest in any contract or proposed contract for construction, materials, or services in connection with or related to a park administered by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.027. SEAL. The board shall adopt a seal, and the seal shall be placed on each lease, deed, or other instrument required to be executed under seal.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 322.041. PERSONNEL. (a) The board may employ permanent or temporary personnel, including secretaries, stenographers, bookkeepers, accountants, technical experts, and other agents.

(b) The board shall determine the qualifications, duties, and compensation of employees.

(c) The board may employ a manager for one or more parks and give the manager full authority for the management and operation of the parks subject only to the direction and orders of the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.042. DEPOSITORIES AND DISBURSEMENTS. (a) Money belonging to or under the control of the board must be deposited and

secured substantially in the manner prescribed by law for county funds.

(b) The board shall select one or more depositories.

(c) A warrant or check for the withdrawal of money must be signed by an officer of the board and one other park commissioner or by two bonded employees of the board. The board by resolution entered in its minutes shall designate the officer and park commissioner or the employees authorized to sign the warrants or checks.

(d) The board may disburse funds under its control for any lawful purpose for the benefit of a park under its control.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.043. CONTRACTS. (a) The board may enter a contract, including a lease or other agreement, with any person as the board considers necessary or convenient to carry out the purposes and powers granted by this chapter, including a contract connected with, incident to, or affecting the acquisition, financing, construction, equipment, maintenance, or operation of a facility located or to be located in or pertaining to a park under its control.

(b) To be effective, a contract must be:

(1) approved by resolution of the board;

(2) executed by the chairman or vice-chairman; and

(3) attested by the secretary or treasurer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.044. LEASES AND OPERATING AGREEMENTS. (a) Concurrent with or at any time before the authorization for issuance of bonds secured by a pledge of the revenues of a designated facility of a park, the board may enter a contract, including a lease, with any person for the operation of the facility. The contract must specify the consideration or specify the method of determining the consideration. The contract may be for a period determined by the board.

(b) The revenues from the contract may be pledged in the resolution or indenture as security or additional security for the revenue bonds. If the contract is concurrent with the authorization

for issuance of the bonds, the revenues constitute security for the bonds.

(c) The contract must require that the rentals, tolls, and charges to be enforced by the lessee for the use or services provided by the facility be sufficient to at least yield in the aggregate money necessary to pay the reasonable operation and maintenance expenses to assure proper operation and maintenance of the facility, plus an amount that will assure income to the board to permit and assure payments into the funds and accounts in the manner, at the times, and in the amounts specified in the resolution.

(d) The contract may provide that the rentals, tolls, and charges may be sufficient to yield a reasonable profit to the other party to the contract, but to be realized only after payment in full of the obligation to the board.

(e) The contract may provide for payment of the annual consideration or rental in approximately equal monthly installments, and that failure to pay any required payment when due may be declared to be a breach of contract, entitling the board under rules prescribed in the contract to declare the contract forfeited and to take over the operation and maintenance of the facility. That remedy is cumulative of all others.

(f) The board may in the resolution or trust indenture reserve the right to enter such a contract after issuance of the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.045. RULES. The board may adopt reasonable rules applicable to tenants, concessionaires, residents, and users of park facilities, regulating hunting, fishing, boating, camping, and other recreational and business privileges in parks under the control of the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.046. GRANTS. The board may accept grants and gratuities in any form from any source approved by the board, including the government of the United States, this state, the commissioners court of either county or an agency of either county, a public or private corporation, or any other person, for the purpose

of promoting, establishing, or accomplishing the objectives, purposes, and powers provided by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.047. FINANCIAL STATEMENT; BUDGET. (a) On or before July 1 of each year, the board shall prepare and file with the county clerk of each of the counties a complete financial statement showing the financial status of the board and the board's properties, funds, and indebtedness.

(b) The financial statement must show separately all information concerning:

(1) revenue bonds;

(2) income from facilities the income of which is pledged to the bonds, and the expenditures from that income; and

(3) money appropriated to the board by the commissioners courts for operational and maintenance expenses.

(c) At the same time the financial statement is filed, the board shall file with the county clerk of each of the counties a proposed budget of its needs for the next calendar year.

(d) The board shall operate the parks under its control, the revenues of which are pledged to the payment of bonds, in a manner that will produce gross revenues sufficient to pay the operation and maintenance expenses of the facilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.048. SUITS. The board constitutes a body corporate and politic and may sue and be sued in its own name.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.049. NO TAXING POWER. The board may not levy a tax for any purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.050. RECORDS. The board shall keep a complete account of each board meeting and proceeding and shall maintain the records of the board in a secure manner. Those records are the property of the board and are subject to inspection by either of the commissioners courts at all reasonable times during office hours on business days. The preservation, microfilming, destruction, or other disposition of the records of the board is subject to the requirements of Subtitle C, Title 6, Local Government Code, and rules adopted under that subtitle.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 63, eff. Sept. 1, 1989.

SUBCHAPTER D. REVENUE BONDS

Sec. 322.071. ISSUANCE; PURPOSE. (a) For the purpose of providing funds to acquire, improve, equip, and repair parks under its control, or for the acquisition or construction of facilities to be used in or connected with or incident to one or more of the parks, the board by resolution may issue bonds from time to time.

(b) The bonds are fully negotiable instruments under Chapter 3, Business & Commerce Code, and other laws of this state.

(c) Included among the permanent improvements and facilities that may be acquired through the issuance of bonds are stadiums, coliseums, auditoriums, athletic fields, pavilions, buildings and grounds for assembly, and parking facilities or other incident improvements.

(d) The bonds must be issued in the name of the board, signed by the chairman, and attested by the secretary. The signatures may be facsimile signatures printed on the bonds. The seal of the board must be impressed, printed, or lithographed on the bonds.

(e) The bonds must mature serially or otherwise in not more than 40 years and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable. The net effective interest rate may not exceed the maximum rate provided by Chapter 1204, Government Code.

(f) The resolution authorizing the issuance of the bonds shall prescribe the details as to the bonds. It may contain provisions for the calling of the bonds for redemption before their respective maturity dates at particular prices and times. Except for rights of

redemption expressly reserved in the resolution and the bonds, the bonds are not subject to redemption before their scheduled maturity dates.

(g) The bonds may be made payable at times and places inside or outside this state as prescribed in the resolution.

(h) The bonds may be made registrable as to principal, or both principal and interest.

(i) The bonds may be issued in one or more series.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.320, eff. Sept. 1, 2001.

Sec. 322.072. PLEDGE OF REVENUES. (a) The bonds may be secured by a pledge of all or part of the net revenues from one or more parks under control of the board, from the facilities of or incident to the parks, or from the parks and the facilities.

(b) The net revenues of one or more contracts, operating contracts, leases, or agreements may be pledged as the sole security or as additional security for the support of the bonds.

(c) The bonds may be additionally secured by a mortgage on all or part of the real and personal property owned by the board.

(d) In the resolution authorizing issuance of bonds, the board may reserve the right, under conditions specified in the resolution, to issue additional bonds that will be on a parity with or subordinate to the bonds then being issued.

(e) While any bonds are outstanding, no additional bonds of equal dignity may be issued against the pledged revenues except to the extent and in the manner expressly permitted in the resolution.

(f) In this chapter, "net revenues" means the gross revenues from the park or parks and the facilities, leases, agreements, or contracts incident to the park or parks, the revenues of which have been pledged, after deduction of the necessary expenses as provided by Section 322.075.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.073. PROCEEDS. (a) The proceeds of the bonds shall be used under the restrictions provided in the resolution. The holders of the bonds and any trustee provided for in respect to the

bonds have a lien on the proceeds until so applied, but neither the depository of those funds nor the trustee is obligated to ensure the proper application of the funds except as expressly provided in the resolution or the indenture securing the bonds.

(b) From the bond proceeds there may be set aside:

(1) an amount for payment of interest on the bonds estimated to accrue during the construction period and any additional period prescribed in the resolution; and

(2) an amount for the interest and sinking fund or another reserve fund provided for in the resolution.

(c) Proceeds remaining after the amounts are set aside under Subsection (b) shall be used for the payment of all expenses necessarily incurred in the issuance and sale of the bonds and then for the purposes specified in the resolution.

(d) Any surplus remaining after accomplishment of the bond purposes shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices or be retained for future expansion or improvements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.074. APPROVAL AND REGISTRATION. (a) Before the bonds are delivered to the purchaser, the bonds and the records pertaining to the bonds must be submitted to the attorney general for examination and approval. The attorney general shall approve the bonds if issued in accordance with this subchapter.

(b) Bonds approved by the attorney general and registered with the comptroller of public accounts are incontestable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.075. FEES AND REVENUE. (a) In this section, "fee" includes a fee, charge, or toll.

(b) The expense of operation and maintenance of facilities the revenues of which are pledged to the payment of bonds are a first lien on and charge against the income of the facilities. If any of the bonds or interest remains outstanding, the board shall charge or require the payment of fees for the use of the facilities. The board shall determine the rate of fees charged by it for the use,

operation, or lease of the facilities. Fees must be equal and uniform within the classes defined by the board and must be in amounts that will yield revenues at least sufficient to pay the expenses of operation and maintenance and to make the payment prescribed in the resolution for debt service. "Debt service," as defined in the resolution, may include the payment of principal and interest as each matures, the establishment and maintenance of funds for extensions and improvements, an operating reserve, and an interest and sinking fund reserve.

(c) The board shall fix the fees in amounts that are sufficient to comply with the covenants in the resolution and with this chapter.

(d) If part of the security for the bonds consists of money to be received by the board as consideration for facilities belonging to the board but operated by a person other than the board under a lease or operating contract, the board shall fix and authorize fees to be charged by the person for services rendered by the facilities. The fees must be in amounts at least sufficient to assure receipt by the board of money that the board is committed to pay from that source for debt service under the terms of the resolution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.076. REFUNDING BONDS. (a) Fully negotiable bonds may be issued by resolution of the board for the purpose of refunding bonds issued under this chapter.

(b) The refunding bonds may be secured in the manner provided by this chapter for securing original bonds.

(c) Refunding bonds may be sold and the proceeds used to retire the original bonds, or may be used in exchange for the original bonds, as provided in the resolution authorizing their issuance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.077. BONDS NOT STATE OR COUNTY DEBT. (a) The bonds are not a debt of either of the counties, of this state, or of the individual members of the board, but are payable solely from the income and properties of the board.

(b) Each bond must contain on its face substantially the following provision: "The holder hereof shall never have the right

to demand payment of this obligation out of any funds raised or to be raised by taxation."

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.078. MISCELLANEOUS PROVISIONS. (a) In this section, "fee" includes a fee, charge, or toll.

(b) The resolution authorizing the issuance of the bonds may require that the bonds contain a recital that they are issued pursuant to and in strict conformity with this chapter. If made, that recital is conclusive evidence of the validity of the bonds and the regularity of their issuance.

(c) Each bond is exempt from taxation by this state or by a municipal corporation, county, or other political subdivision or taxing district of the state.

(d) If provided for in the resolution, an indenture securing the bonds may be executed between the board and a corporate trustee. The resolution may also provide for execution of the indenture by a corporate or individual cotrustee. In addition to the pledge of revenues, the indenture may grant a mortgage or deed of trust lien on all or any part of the real and personal property of the board. A corporate trustee or corporate cotrustee must be a trust company or a bank located inside or outside this state that has trust powers.

(e) Either the resolution or an indenture may contain provisions for protecting or enforcing the rights or remedies of the bondholders as considered by the board to be reasonable, proper, and not in violation of law. The provisions may include covenants setting forth the duties of the board in reference to the maintenance, operation or repair, and insurance of the facility the revenues of which are pledged, including within the discretion of the board, insurance against loss of use and occupancy. The provisions may also include covenants for the custody, safeguarding, and application of money received from the sale of the bonds and from the revenues received from the operation of the project.

(f) Any bank or trust company in this state may act as depository for the proceeds of the bonds, the revenues derived for operation of the facilities the revenues of which are pledged, or for the special funds created to assure payment of principal and interest on the bonds, including reserve funds and accounts. The depository

may furnish indemnity bonds or pledge securities as required by the board.

(g) The board may select the depository or depositories without the necessity of seeking competitive bids. The deposits must be secured in the manner required by law for the security of county funds. The board in the resolution or indenture may bind the board to the use of direct obligations of the United States or obligations unconditionally guaranteed by the United States as security for the deposits.

(h) The resolution or indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual rights of action of the bondholders. The resolution may contain other suitable provisions the board considers reasonable and proper for the security of the bondholders, including:

(1) covenants prescribing occurrences that constitute events of default and the terms and conditions on which any or all of the bonds become due, or may be declared to be due, before maturity; and

(2) covenants as to the rights, liabilities, powers, and duties arising from the breach by the board of any of its duties or obligations.

(i) Any bondholder or a trustee for a bondholder may by mandamus or other proceeding in a court of competent jurisdiction enforce the bondholder's rights against the board or its agents and employees or against any lessee of any facility the revenues of which are pledged to the bonds, including the right to require the board to impose, establish, and enforce fees sufficient and effective to carry out the agreements contained in the resolution or indenture, the right to perform all agreements and covenants in the resolution and the duties arising from the resolution or indenture, and the right in the event of default as defined in the resolution or indenture to apply for and obtain the appointment of a receiver for any of the properties involved. If a receiver is appointed, the receiver shall enter and take possession of the facilities mortgaged and the revenues of which have been pledged. The receiver shall retain possession until the board is no longer in default or until relieved by a court, and shall collect and receive all revenues and fees arising from the retained property. The receiver may make and renew contracts or leases with the approval of the court in the same manner as the board. The receiver shall dispose of and apply the money in

accordance with the obligations of the board under the resolution or indenture and as the court may direct.

(j) The resolution or indenture may contain provisions to the effect that while the revenues of the park facilities are pledged to the payment of bonds, no free service may be rendered by any of those facilities for which fees are to be effective under the resolution.

(k) The bonds are legally authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds and other funds of this state. The bonds are eligible to secure the deposit of any municipal corporation, county, political subdivision, public agency, or taxing district in this state, and the bonds are lawful and sufficient security for those deposits to the extent of their face value when accompanied by all unmatured appurtenant coupons.

(l) The resolution, the indenture, and this chapter constitute an irrevocable contract between the board and the bondholders.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 323. COUNTY LIBRARIES

SUBCHAPTER A. COUNTY LIBRARY

Sec. 323.001. ESTABLISHMENT AND MAINTENANCE. (a) The commissioners court of a county may, on its own motion, and shall, on petition by a majority of the voters of the affected part of the county, establish, maintain, and operate a free county library for the area of the county located outside the municipalities that maintain free public libraries.

(b) The county library shall be located at the county seat in the courthouse unless a more suitable location is available.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.002. MAINTENANCE FUNDS. The commissioners court annually may set aside from the general fund or the permanent improvement fund of the county an amount to be used to maintain or to make a permanent improvement or acquire land for the county library. The amount may not exceed 12 cents on the $100 valuation of all property:

(1) located in the county outside the municipalities that are supporting a free public library and that are not participating in the county library system; and

(2) located within the municipalities that are supporting a free public library and that have elected to become a part of the county library system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.003. GIFTS. The commissioners court may receive a gift, bequest, or devise for the county library or a branch or subdivision of the library. Title to property given, bequeathed, or devised to the county library vests in the county. A gift or bequest made for the benefit of a branch of the library shall be administered as designated by the donor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.004. FARMERS' COUNTY LIBRARY. In a county that has a farmers' county library established under prior law, the library shall continue to operate as a farmers' county library, but if a county library is established in the county, the farmers' county library shall become a part of the county library.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.005. LIBRARIAN. (a) If a county library is established, the commissioners court shall employ a county librarian. A person holds the position of county librarian at the pleasure of the commissioners court.

(b) Before beginning to perform duties, a person employed as county librarian must file with the county clerk the official oath and, at the discretion of the commissioners court, execute a bond conditioned that the person will faithfully perform the duties of the position. The bond must be in an amount determined by the commissioners court and must be purchased from sufficient sureties approved by the county judge.

(c) The county librarian shall attempt to provide equal and

complete service to all areas of the county through branch libraries and deposit stations in schools and other suitable locations and shall distribute books, other printed matter, and other educational materials as quickly as circumstances permit. The librarian may make rules for the operation of the county library, establish branch libraries and deposit stations in the county, determine the number and type of employees needed by the library, and hire and dismiss the employees in the same manner as provided by the commissioners court for other county departments. The librarian shall, subject to the general rules adopted by the commissioners court, develop and manage the library in accordance with accepted rules of library management and shall determine which books and library equipment will be purchased.

(d) On or before March 31 of each year, the county librarian shall report to the commissioners court and the state librarian on the operation of the county library during the previous fiscal year. The report must be made on a form furnished by the state librarian and must contain a statement of the condition of the library and a statement of its operation during the year and must contain financial and book statistics customarily kept by well-regulated libraries.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 69(a), eff. Aug. 28, 1989. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 24, eff. September 1, 2009.

Sec. 323.006. SUPERVISION. The county library is under the general supervision of the commissioners court. It is also under the supervision of the state librarian who, in person or by an assistant, shall periodically visit the library, inquire as to its condition, advise the librarian and the commissioners court about the library, and give whatever assistance possible in matters that relate to the library.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.007. LIBRARY FUND. Funds of the county library shall be deposited in a separate fund to be known as the county free

library fund and may be used only for library purposes. The funds are under the custody of the county treasurer or any other county official designated to discharge the duties commonly assigned to the county treasurer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.008. PARTICIPATION WITH A MUNICIPALITY. (a) If a county library is established, the governing body of a municipality that maintains a free public library may notify the commissioners court that the municipality desires to become a part of the county library system. After the notice is given, the municipality is considered to be a part of the system, and the residents of the municipality are entitled to the benefits of the library. Property in the municipality shall be included in determining the amount to be set aside in the county free library fund for county library purposes.

(b) The commissioners court of a county that has established a county library may contract with the governing body of a municipality that maintains a free public library to extend county library privileges to the municipality's residents to the extent and for consideration as the parties may agree. The consideration paid by the municipality shall be deposited in the county free library fund. On the making of the contract, the library privileges are extended to the residents of the municipality.

(c) After a municipality has been a part of the county library system for two years, the governing body of the municipality may withdraw from the system by giving notice of its intention to do so to the commissioners court. The notice must be given at least six months before the withdrawal. On withdrawal, the municipality is no longer entitled to participate in the benefits of the system, and the property located in the municipality may not be included in computing the amount to be set aside for county library purposes. Before the governing body may give the notice of withdrawal to the commissioners court or before the governing body may retract the notice of withdrawal after it has been given to the commissioners court, the governing body must publish another notice once a week for six consecutive weeks in a county newspaper circulated throughout the municipality and designated by the governing body. The published

notice must state the nature of the proposed action and the date and location of the meeting at which the proposed action is to be taken.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.009. PARTICIPATION WITH A COUNTY. (a) The commissioners court of a county that has established a county library may contract with the commissioners court of another county to extend county library privileges to the residents of the other county to the extent and for the consideration as the parties may agree. The consideration received from the other county shall be deposited in the county free library fund. On the making of the contract, the library privileges are extended to the residents of the other county.

(b) The other county may provide for a county free library fund in the same manner in which a county that establishes a county library may provide for the fund. The purpose of the fund is to carry out a contract made by the other county under Subsection (a).

(c) If the other county makes a contract under Subsection (a), it is not prohibited from establishing its own county library under this subchapter, and if it does so, it may terminate the contract on mutually agreeable terms or may continue under the contract until expiration of its term.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.010. JOINT LIBRARY. (a) The commissioners court of a county may establish in cooperation with other counties a joint free county library for the benefit of the cooperating counties.

(b) The commissioners courts of two or more adjacent counties may jointly establish and maintain a free library under the terms and provisions established by this subchapter for the establishment and maintenance of a free county library. In doing so, the commissioners courts of the participating counties shall operate jointly in the same manner as the commissioners court of a single county. The participating counties have the same powers and are subject to the same liabilities under this subchapter as a single county.

(c) If a county withdraws from the joint county library, it is entitled to a division of property according to terms agreed on at the time the library was established.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.011. PARTICIPATION WITH AN ESTABLISHED LIBRARY. (a) Instead of establishing a county library, the commissioners court of a county may contract for library privileges from an established library.

(b) The contract must provide that the established library assume the functions of a county library within the county, including municipalities in the county. The commissioners court may contract to pay annually to the established library out of the general fund of the county an amount on which the parties may agree.

(c) Either party to the contract may terminate it by giving to the other party six months' notice of its intention to do so. Property acquired under the contract is subject to division on termination of the contract on terms specified in the contract.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 382, Sec. 1, eff. Aug. 30, 1993. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 25, eff. September 1, 2009.

Sec. 323.012. PARTICIPATION WITH A PRIVATELY OWNED LIBRARY. The commissioners court of a county that has established a county library may contract with a privately owned library that serves an area of the county not adequately served by the county library to provide county library service to that area. The contract may require that the privately owned library submit to any reasonable regulation that is imposed on governmental libraries.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.013. DISCONTINUATION OF LIBRARY. A county library may be discontinued on petition of a majority of the voters in that part of the county that maintains the library. The commissioners court shall, on termination of existing contracts, call in and inventory all books and other movable property of the discontinued library and shall store the property under lock and seal in a suitable place in

the county courthouse.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. COUNTY LAW LIBRARY

Sec. 323.021. ESTABLISHMENT AND MAINTENANCE. (a) The commissioners court of a county by order may establish and maintain a county law library at the county seat or another location determined by the commissioners court.

(b) The commissioners court shall provide suitable space for housing the library at a place that is both convenient and accessible to the judges and litigants of the county. The commissioners court may, with the advice of the committee created under Section 323.024, use funds collected under this subchapter to acquire a location for the library, though priority in the use of funds shall be given to the acquisition of books, periodicals, other library materials, and staff for the library. The commissioners court may appropriate an amount not to exceed $20,000 to establish the library and shall annually appropriate an amount necessary for the proper maintenance and operation of the library.

(c) The commissioners court of a county may establish, maintain, and operate in cooperation with other counties a joint free county law library for the benefit of the cooperating counties in the same manner that a joint county library may be established and operated under Section 323.010.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 760 (S.B. 1911), Sec. 2, eff. September 1, 2017.

Sec. 323.022. GIFTS. The commissioners court may receive any gift or bequest to the law library. Title to a gift or bequest vests in the county. A conditional gift or bequest shall be administered as designated by the donor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.023. LAW LIBRARY FUND. (a) The commissioners court shall establish a county law library fund.

(b) The county law library fund may be used only for:

(1) establishing the law library after the entry of the order creating it;

(2) purchasing or leasing library materials, maintaining the library, or acquiring furniture, shelving, or equipment for the library;

(3) purchasing or leasing library materials or acquiring library equipment, including computers, software, and subscriptions to obtain access to electronic research networks for use by judges in the county; or

(4) establishing and maintaining a self-help center to provide resources to county residents representing themselves in legal matters.

(c) Money in the fund may be used for the purposes described by Subsection (b)(3) only if the county's law librarian or, if the county has no law librarian, the person responsible for the county's law library, authorizes the use in consultation with the county auditor.

(d) Expenditures by a county under Subsection (b)(3) may not exceed $175,000 each year. Any unexpended and unobligated balance allocated by the county for Subsection (b)(3) purposes that remains at the end of the county's fiscal year remains available for use for Subsection (b)(3) purposes during subsequent fiscal years.

(e) The county law library fund shall be administered by or under the direction of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 70(a), eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 331, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1010, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 760 (S.B. 1911), Sec. 3, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 3.15, eff. January 1, 2022.

Sec. 323.024. MANAGEMENT. (a) The commissioners court of a

county that has established a law library under this subchapter shall adopt rules for the use of books in the county law library.

(b) The commissioners court may vest management of the library in a committee selected by the county bar association. Actions of the committee are subject to approval by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.025. CLAIMS. A claim against the law library shall be handled as other claims against the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. ADDITIONAL LIBRARY AUTHORITY

Sec. 323.051. ACQUISITION AND LOCATION OF LIBRARY. (a) The commissioners court of a county may:

(1) purchase, construct, repair, equip, or improve a building or other permanent improvement for county library use;

(2) acquire land for county library use; and

(3) determine the location in the county of each county library building or permanent improvement.

(b) A county that maintains a permanent improvement fund shall use money in that fund to pay for each library building, repair, or improvement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 12, eff. Sept. 1, 1999.

Sec. 323.052. COUNTY LIBRARY BONDS. (a) A county may issue bonds, and impose ad valorem taxes for payment of the bonds, to pay the cost of:

(1) purchasing, constructing, repairing, equipping, or improving a building or other permanent improvement for county library use; or

(2) acquiring land for county library use.

(b) The issuance of the bonds and the imposition of the taxes must be in conformity with Subtitles A and C, Title 9, Government Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 12, eff. Sept. 1, 1999.

SUBCHAPTER D. LIBRARY FINES; CIVIL PENALTY

Sec. 323.071. LIBRARY FINES. (a) The commissioners court by order may establish reasonable fines to be collected by a county library for lost, damaged, or overdue library property.

(b) The fines shall be deposited in the county free library fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 697 (H.B. 2902), Sec. 1, eff. September 1, 2013.

Sec. 323.072. ABUSE OF COUNTY LIBRARY SERVICES. (a) The commissioners court by order may adopt reasonable regulations that prohibit a person from abusing library services by intentionally failing to pay a library fine or return library property.

(b) A person who violates a regulation adopted by the county under this section is liable to the county for a civil penalty of not more than $100 for each violation. A county may bring suit in a district or county court to recover a civil penalty authorized by this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 697 (H.B. 2902), Sec. 1, eff. September 1, 2013.

CHAPTER 324. PARK AND RECREATION DISTRICT AND PARK BONDS: COUNTIES WITH FRONTAGE ON GUADALUPE AND COMAL RIVERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 324.001. ELIGIBLE COUNTIES. In a county that has river frontage on both the Guadalupe and Comal rivers, a district may be created for all or part of the unincorporated area in the county to:

(1) improve, equip, maintain, finance, and operate any public park located in the district and owned or leased by the county;

(2) conserve the natural resources in the district; and

(3) improve the public health, safety, and welfare in the district.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.002. DEFINITIONS. In this chapter:

(1) "District" means a park and recreation district created under this chapter.

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

(3) "Fee" includes a toll or any other charge.

(4) "Park" includes any land, including any improvements to the land, that is administered, operated, or managed by the district for use by the general public.

(5) "District facility" includes any facility, land, or improvement to land, whether permanent or temporary, that is owned, leased, or acquired by the district.

(6) "Hotel" means a building in which persons may obtain sleeping accommodations for consideration of a fee and includes a motel, tourist court, lodging house, inn, rooming house, or condominium, but does not include a hospital, sanitarium, or nursing home.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 539, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 1039, Sec. 2, eff. Aug. 30, 1993.

SUBCHAPTER B. CREATION OF PARK AND RECREATION DISTRICT

Sec. 324.021. ORDER OF ELECTION. (a) The commissioners court of the county may order an election on the issue of the creation of a district:

(1) on the commissioners court's own motion; or

(2) after the filing of a written petition signed by a number of the registered voters who reside in the county equal to at least five percent of the votes received in the county in the most recent gubernatorial general election.

(b) The petition or commissioners court's motion must include:

(1) the name of the proposed district;

(2) an accurate description of the area to be included in the district by metes and bounds and by public roads or rights-of-way; and

(3) an accurate plat of the area to be included in the district.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.022. NOTICE OF HEARING. (a) After the filing of the petition, the commissioners court shall set a date for a hearing on the petition that is after the 20th day but on or before the 40th day after the date the petition is filed.

(b) The commissioners court shall publish notice of the petition and the hearing date in a newspaper of general circulation in the county.

(c) The notice must be published once each week for a period of two weeks before the hearing date.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.023. HEARING. (a) At the hearing, evidence shall be taken as in civil cases in the county court. The commissioners court shall hear all arguments for and against the creation of the district.

(b) The hearing may be adjourned from time to time on good cause shown.

(c) The commissioners court shall grant the petition and order the election on the issue of the creation of the district if the court finds that:

(1) the petition is signed by the required number of registered voters in the county;

(2) the district will serve the purposes prescribed by Section 324.001; and

(3) the district does not include any incorporated area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.024. CREATION ELECTION. (a) The election shall be held on the date of the first regularly scheduled countywide election that follows the date of the order of the election and for which there is sufficient time to comply with other requirements of law.

(b) The returns on the election shall be certified and canvassed and the results declared, in the same manner as provided for other county elections. If a majority of the votes received on the issue favor creation of the district, the commissioners court shall declare the district created and shall enter the results in its minutes at its next regularly scheduled meeting.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.025. COSTS OF CREATION AND ORGANIZATION. The costs necessarily incurred in the creation and organization of the district may be paid from the district's revenue from bond anticipation notes, the first revenue bonds issued by the district, or any other source.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

SUBCHAPTER C. BOARD OF DIRECTORS OF PARK AND RECREATION DISTRICT

Sec. 324.041. COMPOSITION AND APPOINTMENT OF BOARD. (a) A district is governed by a board composed of seven members.

(b) The commissioners court shall appoint the members of the board.

(c) A board member must be a citizen of the United States and must reside in the county. Four of the board members must reside, own property, or own a business in the district. One board member must live outside the district.

(d) A board member may not be an officer or employee of the county in which the district is created or of a municipality in that county.

(e) Three members of the initial board serve one-year terms and four serve two-year terms. The members shall draw lots to determine who serves the one-year terms. Thereafter, each director is appointed for a term of two years from the date of the director's appointment.

(f) If a vacancy occurs on the board, the commissioners court shall appoint a person to fill the vacancy for the unexpired term.

(g) The commissioners court shall file a certificate of the appointment of each board member with the county clerk. The certificate is conclusive evidence of the proper appointment of the board member.

(h) A board member may not serve more than four consecutive full terms.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.042. OATH AND BOND. (a) Within 30 days after the date a board member is appointed, the member must qualify by taking the official oath and by filing a good and sufficient bond with the county clerk.

(b) The bond must be:

(1) payable to the order of the commissioners court;

(2) payable in an amount prescribed by the commissioners court of $5,000 or more; and

(3) conditioned that the board member will faithfully perform the duties of a board member, including the proper handling of all money that comes into the board member's hands in the board member's official capacity.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 5, eff. Aug. 30, 1993.

Sec. 324.043. COMPENSATION AND REIMBURSEMENT. A board member is not entitled to compensation but is entitled to reimbursement for necessary expenses, including travel expenses, incurred in performing the duties of a board member. A board member's reimbursement for necessary expenses, in excess of $250, shall be approved by the commissioners court. A board member's approved expense account shall be paid in due time by the board's check or warrant.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 6, eff. Aug. 30, 1993.

Sec. 324.044. QUORUM; MAJORITY VOTE. Four board members constitute a quorum of the board. The board may act on the majority of the vote of the assembled quorum.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 539, Sec. 2, eff. Sept. 1, 1989.

Sec. 324.045. APPROVAL OF COMMISSIONERS COURT. (a) The board is subject to the supervision of the commissioners court in the exercise of all its rights, powers, and privileges and in the performance of its duties.

(b) Not later than the 30th day after the date on which the board acts, the commissioners court may approve or disapprove the action. If the court disapproves the act, the act is ineffective. Otherwise, the act becomes effective on the date that the commissioners court approves the act or on the 31st day after the date on which the board acted, whichever is first.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 539, Sec. 3, eff. Sept. 1, 1989.

Sec. 324.046. ORGANIZATION; MEETINGS. (a) Annually, the board shall elect a president, a vice-president, a secretary, and a treasurer, except that the first president shall be designated by the commissioners court at the time of the appointment of the first board.

(b) The offices of secretary and treasurer may be held by the same person. If either the secretary or the treasurer is absent or unavailable, the president may appoint another board member to act for and perform the duties of the absent or unavailable officer.

(c) The board shall set times for and hold regular meetings. On the request of two or more board members, the board may hold special meetings at other times as necessary.

(d) The board shall hold its meetings at a public place in a county in which at least part of the district is located.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 7, eff. Aug. 30, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 491 (H.B. 422), Sec. 1, eff. September 1, 2005.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 324.061. DEPOSITORIES AND DISBURSEMENTS. (a) Money and other funds belonging to or under control of the board are public funds.

(b) The board shall select depositories for the money.

(c) A warrant or check for the withdrawal of money must be signed by two persons authorized to sign a warrant or check by resolution entered in the minutes of the board.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 8, eff. Aug. 30, 1993.

Sec. 324.062. PERSONNEL. (a) The board may employ managers, secretaries, stenographers, bookkeepers, accountants, technical experts, and any other support personnel or agents the board considers necessary.

(b) The board shall determine the qualifications and set the duties of employees.

(c) The board may call on the county attorney, district attorney, or criminal district attorney for the legal services it requires. In addition, or in the alternative, the board may contract for and compensate its own legal staff.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 9, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 452, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 491 (H.B. 422), Sec. 2, eff. September 1, 2005.

Sec. 324.063. SEAL. The board shall adopt a seal to place on each lease, deed, or other instrument usually executed under seal and on other instruments as the board requires.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.064. CONTRACTS. (a) The board may enter into any

contract that the board considers necessary or convenient to carry out the purposes and powers granted by this chapter, including a lease or other contract connected with, incident to, or affecting the acquisition, financing, construction, equipment, maintenance, renovation, repair, improvement, or operation of real property or facilities.

(b) If the contract is for an amount less than or equal to the amount in Section 262.023, the board may enter into the contract without advertisement. If the contract is for more than that amount, the contract is subject to the bidding provisions for contracts applicable to the county.

(c) To be effective, a contract must be:

(1) approved by resolution of the board;

(2) executed by the president or vice-president; and

(3) attested by the secretary or treasurer.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 10, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 452, Sec. 2, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 491 (H.B. 422), Sec. 3, eff. September 1, 2005.

Sec. 324.065. SUITS. The board may sue and be sued in its own name.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.066. DISTRICT RULES AND ORDINANCES; CRIMINAL PENALTY; CIVIL ENFORCEMENT. (a) The board may adopt reasonable rules and ordinances applicable to:

(1) the administration, enforcement, and collection of district taxes and the issuance, suspension, and cancellation of revenue permits;

(2) littering and litter abatement on the public water in the district, including the possession and disposition of glass containers;

(3) activities that endanger the health and safety of persons or property on public water in the district, subject to the

public's paramount right to navigate inland water; and

(4) tenants, business privileges, concessionaires, users, and activities affecting district property and facilities, including hunting, fishing, boating, camping, tubing, swimming, and conservation of natural resources.

(b) A police officer, constable, sheriff, or other law enforcement officer with jurisdiction in the county may arrest persons violating rules or ordinances of the board, and carry out the prosecution of those persons in the proper court.

(c) A person who violates a rule or ordinance adopted under this section commits an offense. An offense under this section is a Class C misdemeanor.

(d) The county attorney, the district attorney, the criminal district attorney, or an attorney retained by the board for this purpose may bring an action to enjoin a violation of board rules or ordinances, and if the board authorizes, may seek damages and attorney's fees based on the violation, if the violation involves:

(1) the providing or offering of a service or the use or rental of a facility or an item for remuneration by a person who does not hold a revenue permit issued by the district or for which collection of a tax is required;

(2) failure of a revenue permit holder to remit a tax imposed and the tax has been due for more than 60 days; or

(3) violation by a revenue permit holder of a district rule relating to an activity that endangers the health or safety of a person or property in the district.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 11, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 452, Sec. 3, eff. Sept. 1, 1997.

Sec. 324.0665. BOND. If the board brings an action to enforce this subchapter or enjoin a violation of a rule or ordinance adopted by the board under this subchapter, the board is not required to post a bond.

Added by Acts 1997, 75th Leg., ch. 452, Sec. 4, eff. Sept. 1, 1997.

Sec. 324.067. POWER TO ACQUIRE PROPERTY. (a) For the

conservation of the natural resources of the county, the board may acquire land in the county, in or out of the district, including streams, lakes, submerged lands, and swamplands, to create parks. The board may develop, improve, protect, and promote the land in a manner the board considers conducive to the general welfare.

(b) The land may be acquired by:

(1) gift or devise;

(2) lump-sum payment; or

(3) installment payments with or without option to purchase.

(c) The district does not have the power of eminent domain.

(d) The commissioners court by eminent domain may not acquire land for park purposes and subsequently transfer by any means the land or control of the land to the board for park purposes or other purposes. If the commissioners court by eminent domain acquires land for purposes other than park purposes, the court may not subsequently transfer by any means the land or control of the land to the board for park purposes or other purposes unless at least 10 years have expired after the date of the acquisition by the court. This subsection applies only to land that the commissioners court acquires by eminent domain on or after August 31, 1987.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.068. SALE OR LEASE OF LANDS. (a) If the board determines that any land owned by the district is not necessary for the purposes for which the land was acquired, the board may sell and dispose of the land on terms the board considers advisable.

(b) The board may lease or permit the use of land for purposes consistent with the purposes for which the land was acquired and on terms the board considers advisable.

(c) Before land owned by the district may be sold, once a week for four consecutive weeks in a newspaper of general circulation in the county, the board must publish a notice of its intention to sell the land. The notice must include an accurate description of the land, the time of a public hearing that is before the 10th day before the disposition date, and the time and place at which sealed bids will be received.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.069. ACCEPTANCE OF GRANTS AND GRATUITIES. To promote, establish, or accomplish a purpose of this chapter, the board may:

(1) accept grants and gratuities in any form from any source, including the United States government, this state, any state or federal agency, any private or public corporation, or any other person;

(2) accept donations of money or other property; and

(3) act as trustee of land, money, or other property.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.070. COOPERATION WITH OTHER PUBLIC AUTHORITIES. Under an agreement with a public authority in control of parkland in the county, the district may assume control of all or part of the parkland within the district or contiguous to the district or may contract or cooperate with the public authority in connection with the use, development, improvement, and protection of the parkland.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 12, eff. Aug. 30, 1993.

Sec. 324.071. IMPROVEMENT OF PUBLIC HIGHWAY. The board may enter into agreements with the public authorities in control of a highway in a park area or connecting two or more park areas to make alterations in the route or width of the highway, or to grade, drain, pave, or otherwise improve the highway.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.072. PLAN FOR DEVELOPMENT OF PARKS; ANNUAL BUDGET; FILING. (a) The board shall develop and approve a three-year master plan for capital development and the development of parks and district facilities.

(b) The board shall annually review and revise the master plan during the budget process and shall file a copy of the master plan

and revisions with the county clerk.

(c) The board shall annually develop and approve a one-year budget that must include the suggested revisions and additions to the master plan.

(d) The board shall submit the annual budget to the commissioners court for approval and shall file a copy with the county clerk.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 13, eff. Aug. 30, 1993.

SUBCHAPTER E. BONDS, TAXES, AND OTHER FINANCIAL MATTERS

Sec. 324.091. REVENUE BOND ELECTION. (a) Revenue bonds may not be issued by the district until authorized by a majority vote of qualified voters of the district voting at an election called and held for that purpose.

(b) The board may order a bond election. Regardless of Section 324.045(b), the order is not effective unless approved by the commissioners court. Except as provided by this section, the election shall be held in the manner provided by the Election Code.

(c) At an election to authorize bonds, the ballot must be printed to provide for voting for or against the issuance of revenue bonds.

(d) If a majority of the votes cast at the election favor the issuance of the bonds, the bonds may be issued by the board, but if a majority of the votes cast at the election do not favor issuance of the bonds, the bonds may not be issued.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.092. REVENUE BONDS. (a) For the purpose of providing funds for the acquisition of any permanent improvement to property of the district or for the acquisition, renovation, repair, improvement, equipping, or construction of a facility to be used in connection with the operation of the district, the board may issue revenue bonds that are approved at an election called under Section 324.091.

(b) The district may make the bonds payable out of any revenue of the district but may not levy ad valorem taxes on any property

located within the district.

(c) Bonds issued under this chapter are fully negotiable instruments under Chapter 8, Business & Commerce Code, and other laws of this state.

(d) Except as provided by Section 324.095, among the permanent improvements and facilities that may be acquired through the issuance of revenue bonds are bathhouses; bathing beaches; swimming pools; pavilions; athletic fields; golf courses; buildings and grounds for assembly, entertainment, health, and recreation; restaurants and refreshment places; yacht basins; parking lots; and roads.

(e) The bonds must be issued in the name of the county, signed by the county judge, and attested by the county clerk and ex officio clerk of the commissioners court. The seal of the commissioners court must be impressed on the bonds.

(f) The bonds must mature serially or otherwise in not more than 40 years and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable.

(g) The resolution authorizing the issuance of the bonds may contain provisions for redemption of the bonds before their respective maturity dates at prices and times prescribed in the resolution. Except for rights of redemption expressly reserved in the resolution and in the revenue bonds, the bonds are not subject to redemption before maturity.

(h) The bonds may be made payable at times and at places, inside or outside the state, prescribed in the resolution.

(i) The bonds may be made registrable as to principal or as to both principal and interest.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.093. APPROVAL BY ATTORNEY GENERAL. (a) Bonds issued by the district must be submitted to the attorney general for examination. The bonds must be submitted with the record relating to their issuance and the record relating to the creation of the district.

(b) If the attorney general finds that the bonds have been authorized in accordance with law, the attorney general shall approve the bonds and the comptroller shall register the bonds.

(c) Bonds that are approved and registered under this section

are incontestable and are valid and binding obligations in accordance with their terms.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.094. REFUNDING BONDS. The district may issue refunding bonds under Chapter 1207, Government Code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.321, eff. Sept. 1, 2001.

Sec. 324.095. PERMANENT IMPROVEMENTS ON LAND WITH RIVER FRONTAGE. (a) Through revenue bonds or any other revenue sources, the district may not purchase a river access location except for use as a:

(1) sanitary facility;
(2) litter receptacle;
(3) drinking water facility;
(4) parking lot;
(5) road or trail;
(6) river ingress or egress facility;
(7) information booth;
(8) tax collection facility;
(9) visitor's center; or
(10) district office.

(b) At a river access location permitted under this section, the district may not engage in any activity that competes with private enterprise except the provision and operation of a permanent improvement permitted under this section.

(c) Subject to the restrictions provided by Section 324.067(d), the district may accept as a grant, gratuity, gift, or devise land with river access and any improvement that may exist on the land at the time of the gift.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 14, eff. Aug. 30, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 491 (H.B. 422), Sec. 4, eff. September 1, 2005.

Sec. 324.096. FEES. (a) The expense of operation and maintenance of a facility of which the revenues are pledged to the payment of bonds is a first lien on and charge against the income of the facility. As long as any of the bonds or interest remain outstanding, the board shall charge or require the payment of fees for the use of the facilities, except drinking water or sanitary facilities. Fees must be equal and uniform within classes defined by the board and must be in amounts that will yield revenues at least sufficient to pay the expenses of operation and maintenance and to make the payment prescribed in the bond resolution for debt service. "Debt service," as defined in the bond resolution, may include: the payment of principal and interest as each matures, the establishment and maintenance of funds for extensions and improvements, an operating reserve, and an interest and sinking fund reserve.

(b) Except as provided by a contract entered into by the board, the board may determine the rate of fees charged for the use, operation, or lease of facilities, services, or equipment of the district. The board shall fix the fees in amounts sufficient to comply with the covenants in the bond resolution.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.097. FINANCIAL STATEMENT; BUDGET. (a) On or before February 1 of each year, the board shall prepare and file with the officer responsible for the county budget a complete financial statement showing the financial status of the district and the district's properties, funds, and indebtedness.

(b) The financial statement must be prepared in accordance with standards adopted by the Government Accounting Standards Board and must show separately all information concerning:

(1) revenue bonds, the income from pledged facilities, and expenditures of that revenue;

(2) leases, promissory notes, and other indebtedness of the district; and

(3) fee and tax revenue of the district.

(c) At the time the financial statement is filed, the board shall file with the commissioners court a proposed budget of its needs for the next fiscal year. The proposed budget shall include items that:

(1) the board is unable to finance from the district's revenues, including revenues from facilities of which the income is pledged to revenue bonds; and

(2) the board requests purchase of with county funds.

(d) The officer responsible for the county budget shall include the district's proposed budget on the calendar for the next regularly scheduled meeting of the commissioners court. As part of the county's tentative budget, the items certified by the board are subject to state law relating to county budgets.

(e) The county auditor may conduct a general audit and issue a financial statement of the district at times the auditor considers appropriate.

(f) The board shall operate the parks and facilities under its control for which revenues are pledged to the payment of revenue bonds in a manner that will produce gross revenues sufficient to pay the operation and maintenance expenses of the parks and facilities without seeking from the commissioners court the appropriation of additional money for expenses.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 15, eff. Aug. 30, 1993.

Sec. 324.098. BOND ANTICIPATION NOTES. (a) If funds are not available to pay the principal of or interest on bonds issued by the district or to pay other obligations of the district, the board may declare an emergency and may issue negotiable bond anticipation notes to borrow the money needed. The bond anticipation notes may bear interest at a rate that does not exceed the maximum rate provided by Chapter 1204, Government Code, and must mature within one year after their date of issuance.

(b) Bond anticipation notes may also be issued for any purpose for which bonds of the district have been voted or to refund previously issued bond anticipation notes.

(c) Bond anticipation notes issued under this section must be

authorized by resolution of the board, subject to approval by the commissioners court under Section 324.045, and must be executed by the president of the board and attested by the secretary of the board.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.322, eff. Sept. 1, 2001.

Sec. 324.099. IMPOSITION AND COLLECTION OF TAXES; CRIMINAL PENALTY. (a) The district may levy and collect taxes and issue revenue permits to carry out any purposes prescribed by this chapter and to pay the obligations of the district.

(b) The taxes that a district may levy apply only within the district and are:

(1) a tax, at a rate not greater than five percent established by resolution of the board, imposed on each person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays $1 or more:

(A) for each day to rent:

(i) a camping space;

(ii) a picnic space;

(iii) a parking space;

(iv) a boat slip or dry boat storage;

(v) fishing tackle; or

(vi) water-oriented recreational equipment intended for use on a lake in the district, including a boat, personal watercraft, windsurfer, or sailing craft;

(B) for each day of recreational guide services; or

(C) for an initiation or membership fee of a private club or organization that provides water-oriented recreational equipment for use to a member;

(2) a tax imposed by resolution of the board at a rate not greater than four percent on the cost of occupancy of a hotel if the cost of occupancy is $2 or more each day; a tax is not imposed if the accommodations are leased or contracted to one party for at least 30 consecutive days; and

(3) a tax imposed by resolution of the board at a rate not greater than $1 a person:

(A) for each rental of water-oriented recreational equipment, including a canoe, tube, raft, boat, or kayak intended for use on a river in the district; or

(B) if the person is not renting equipment under Paragraph (A), for each person using shuttle service in the district, including for river ingress and egress.

(c) The taxes imposed under this section are payable by the purchaser or consumer of the items subject to the tax except that if the person responsible for collecting the tax does not comply with this chapter by collecting and remitting the tax to the district, the person responsible for collecting the tax is liable for the tax.

(d) A person who does not hold a revenue permit issued by the board may not provide or offer for remuneration a service, a use of a facility, or a rental of an item if the price paid for the service, use, or rental is taxed under this section. A person who holds a revenue permit issued by the district shall collect the taxes imposed under this section and shall report and remit the collected taxes to the district as the district requires.

(e) If a revenue permit holder remits taxes after the due date but on or before the 30th day after the due date, the revenue permit holder shall pay the district a penalty of five percent of the amount of taxes due. If the revenue permit holder remits the taxes after the 30th day after the due date, the person who holds the permit shall pay the district a penalty of 10 percent of the amount of taxes due.

(f) Delinquent taxes and accrued penalties draw interest at the rate of 10 percent a year beginning 60 days after the date on which the taxes were due.

(g) If a revenue permit holder does not collect and remit a tax imposed, the board may suspend, revoke, or cancel the holder's revenue permit in addition to any other remedy the district may have to collect the tax under civil or criminal law.

(h) A person who violates Subsection (d) commits an offense if the person rents or offers for rent an item taxed under this section. Each provision or offer for remuneration of the service, use, or rental is a separate offense. An offense under this subsection is a Class C misdemeanor, unless it is shown at the trial of the defendant that the defendant has previously been convicted of an offense under this subsection, in which case the offense is a Class B misdemeanor.

(i) In the same manner that this section applies to a person

who provides or offers a service, a use of a facility, or a rental of an item in the district, this section applies to a person who resides or does business outside the district but provides or offers recreational guide or shuttle services or the rental of water-oriented recreational equipment and the person regularly transports customers into the district for river access while the person is in the district.

(j) The board may settle a claim for a penalty or interest accrued on a tax imposed by this chapter if the board finds that the revenue permit holder exercised reasonable diligence to comply with this chapter.

(k) The district may impose different tax rates for the different types of services and different types of rental items to which Subsection (b)(3) applies but none of the rates may exceed the maximum rate provided by that subsection.

(l) The managing entity, as defined by Section 221.002, Property Code, of a timeshare property, as defined by Section 221.002, Property Code, shall collect and remit to a district, on a property owner's behalf, all district taxes imposed under Subsection (b)(2) if the managing entity participates in the rental of the property by either:

(1) advertising rental availability on behalf of the property owner; or

(2) collecting the rent on the property owner's behalf.

(m) If a managing entity located in the district does not collect rent or advertise rental availability on behalf of its property owners, a certificate executed in good faith by the managing entity and delivered to the district informing the district that the managing entity does not collect rent or advertise rentals on the behalf of property owners shall be final and binding on the district, so long as the certificate remains accurate.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 539, Sec. 4, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 1039, Sec. 16, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 1000, Sec. 67, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 452, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 491 (H.B. 422), Sec. 5, eff. September

1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 145 (S.B. 1638), Sec. 1, eff. September 1, 2009.

Sec. 324.0995. TAX EXEMPTIONS. (a) Section 324.099(b)(2) does not impose a tax on:

(1) an employee of the United States government conducting official business in the district; or

(2) a person who occupies a lodging facility or campground in the district if the person has evacuated from the person's home due to an emergency and the state has temporarily suspended collection of the state hotel occupancy tax.

(b) The district may not tax a transaction between a person and an interest operated by:

(1) the United States in the district; or

(2) a state park in the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 145 (S.B. 1638), Sec. 2, eff. September 1, 2009.

Sec. 324.100. DISPOSITION OF REVENUE. In addition to any other purpose or obligation of a district, a district may use its tax revenue and other revenue for:

(1) acquisition of a right-of-way that leads to or is in the district;

(2) construction, improvement, or maintenance of a road that leads to or is in the district;

(3) provision of law enforcement, emergency medical services, or fire protection in the district;

(4) programs to improve the water quality and sanitary conditions in the district;

(5) other programs that promote water-oriented recreation in the district;

(6) contribution to the county's general fund in the event that the board finds it has excess revenues;

(7) payment of indebtedness for bonds issued under Sections 324.091 and 324.092;

(8) acquiring insurance for the district;

(9) hiring necessary personnel as provided by Section 324.062;

(10) construction of facilities to house district personnel and equipment;

(11) leasing of property as necessary to benefit the district; and

(12) any other lawful purpose for the benefit of the district.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 1039, Sec. 17, eff. Aug. 30, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 491 (H.B. 422), Sec. 6, eff. September 1, 2005.

Sec. 324.101. REPLACEMENT FUND. (a) The board may establish a replacement fund. It may deposit in the fund any amounts from its revenue that it considers appropriate.

(b) The replacement fund may be used to rebuild on the original site or elsewhere, restore, repair, or improve property of the district that is destroyed or injured or that is necessary to expand, improve, demolish, repair, or replace because of its unfitness.

(c) The board may invest the replacement fund in bonds of the United States, this state, or a county, municipal corporation, or school district of this state.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

SUBCHAPTER F. ANNEXATION, INCORPORATION, DISSOLUTION

Sec. 324.121. ANNEXATION. (a) The voters of an unincorporated area that is contiguous to a district may file a petition with the board to annex the area to the district.

(b) The petition must contain an accurate description of the area proposed for annexation, accompanied by an accurate map or plat of the area.

(c) The petition must be signed by at least one percent of the registered voters in the area proposed for annexation.

(d) If the board considers the proposed annexation desirable,

the board shall file the petition with the commissioners court with a statement of the reasons the board favors the annexation.

(e) The commissioners court shall give notice of a hearing on the petition and hold a hearing in the manner prescribed by Sections 324.022 and 324.023 for a petition for creation of a district.

(f) The commissioners court may grant the petition if it finds the petition meets the requirements of this section and the annexation promotes the purposes for which the district was created.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.122. EFFECT OF INCORPORATION OR ANNEXATION. The incorporation of a political subdivision or the annexation of any part of a park district by a political subdivision does not affect the district's boundaries.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 145 (S.B. 1638), Sec. 3, eff. September 1, 2009.

Sec. 324.123. DISANNEXATION. (a) The voters of or county commissioners for any area in a district may file a petition with the board to disannex the area from the district.

(b) The petition must contain an accurate description of the area proposed for disannexation, accompanied by an accurate map or plat of the area.

(c) The petition must be signed by at least one percent of the registered voters in the area proposed for disannexation or by the county commissioners for the area proposed for disannexation.

(d) The board shall file the petition with the commissioners court if:

(1) the district has not acquired or constructed a permanent improvement or facility in the area proposed for disannexation; and

(2) the district's projected revenue from all sources, except from the area proposed for disannexation, is sufficient to pay the district's outstanding debts.

(e) The commissioners court shall give notice of a hearing on

the petition and hold a hearing in the manner prescribed by Sections 324.022 and 324.023 for a petition for creation of a district.

(f) The commissioners court by order may grant the petition if it finds that:

(1) the petition meets the requirements of this section;

(2) the conditions listed in Subsection (d) exist; and

(3) the disannexation is in the best interests of the county.

(g) The disannexation takes effect on the date stated by the order or, if the order does not state a date, on the date the order is issued.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

Sec. 324.124. DISSOLUTION OF DISTRICT. (a) The commissioners court by order may dissolve a district. The order may be adopted:

(1) on the commissioners court's own motion; or

(2) after the filing of a written petition signed by a number of the registered voters who reside in the district equal to at least 10 percent of the votes received in the district in the most recent gubernatorial general election.

(b) The commissioners court shall give notice of a hearing on the petition and hold a hearing in the manner prescribed by Sections 324.022 and 324.023 for a petition for creation of a district.

(c) The commissioners court shall grant the petition and order the dissolution of the district if the court finds that the petition meets the requirements of this section and that the dissolution is in the best interest of the county.

(d) On dissolution of the district, the property and other assets, the debts and other liabilities, and the obligations of the district become those of the county.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 71(a), eff. Aug. 28, 1989.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 324.901. REQUIREMENTS FOR RENTAL OF WATER-ORIENTED RECREATIONAL EQUIPMENT. (a) This section applies only to the rental of water-oriented recreational equipment in a district.

(b) A person may not rent water-oriented recreational equipment

to a person younger than 18 years of age.

(c) A person may rent water-oriented recreational equipment to a person who is at least 18 years of age only if:

(1) each person who is at least 18 years of age who will use the equipment signs a written agreement for the rental of that equipment; and

(2) each person who will use the equipment, regardless of age, is listed on the agreement.

Added by Acts 1999, 76th Leg., ch. 1098, Sec. 2, eff. Sept. 1, 1999.

CHAPTER 325. SPORTS FACILITY DISTRICT ESTABLISHED BY COUNTY

SUBCHAPTER A. CREATION OF DISTRICT

Sec. 325.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means a sports facility district.

(4) "Sports facility" means a multi-use facility for sport and recreational activities.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.002. CREATION AND PURPOSE OF DISTRICT. The commissioners court of a county by order may create a sports facility district to finance and effect the construction, acquisition, or operation of a sports facility to serve the county.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.003. BOUNDARIES. A sports facility district is composed of the area of the county that created the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

SUBCHAPTER B. DISTRICT ADMINISTRATION

Sec. 325.011. BOARD OF DIRECTORS; TERM OF OFFICE. (a) The district is governed by a board of directors composed of five

members, with two directors appointed by the commissioners court of the county, two directors appointed by the governing body of the municipality having the largest population in the county, and one director appointed by the governing body of the school district with the largest number of students in average daily attendance in the county. The board shall manage the district and administer this chapter.

(b) Directors are appointed for two-year terms expiring on February 1 of odd-numbered years. However, the initial directors may be appointed for terms covering a period of less than two years.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.012. VACANCY ON BOARD. A vacancy on the board shall be filled by appointment of the remaining members. The person appointed to fill the vacancy shall serve only for the unexpired term.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.013. COMPENSATION. Each director is entitled to receive an amount set by the board in its budget, not to exceed $25 a day, for each day the director is actually engaged in performing services for the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.014. ORGANIZATION OF BOARD. (a) After each directors' appointment, the board shall hold a regular meeting at the district office and shall organize by electing from the members of the board one person to serve as chairman, one person to serve as vice-chairman, and one person to serve as secretary.

(b) A member selected to serve as chairman, vice-chairman, or secretary shall serve in that capacity for the member's term of office on the board.

(c) The chairman shall preside over meetings of the board, and in the chairman's absence, the vice-chairman shall preside.

(d) The chairman, vice-chairman, and secretary shall perform

the duties and may exercise the powers specifically given them by this chapter or by orders of the board.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.015. OTHER OFFICERS. (a) The board shall appoint a person to serve as treasurer for the district.

(b) The persons appointed under this section are entitled to the compensation provided by the district's budget.

(c) The person appointed as treasurer shall execute a bond in the amount determined by the board, payable to the district and conditioned on the faithful performance of the treasurer's duties. The district shall pay for the bond.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.016. GENERAL MANAGER. (a) The board may employ a general manager to be the chief administrative officer of the district and may delegate to the general manager full authority to manage and operate the district's affairs subject only to orders of the board.

(b) The general manager shall execute a bond in the amount determined by the board, payable to the authority and conditioned on the faithful performance of the general manager's duties. The authority shall pay for the bond.

(c) The general manager is entitled to receive the compensation provided by the district's budget.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.017. PERSONNEL. (a) The board or the general manager at the direction of the board shall employ persons necessary for the proper handling of district business and operation and may employ or contract with expert and specialized personnel who are necessary to carry out this chapter.

(b) The board shall determine the terms of employment and the compensation to be paid to employees under this section.

(c) The board shall require each employee or person under

contract to the district who collects, pays, or handles any funds of the district to furnish a bond, payable to the district, for an amount sufficient to protect the district from financial loss resulting from actions of the employee or another person. Each bond shall be conditioned on the faithful performance of the employee's or person's duties and on accounting for all money and property of the district in the employee's or person's hands. The district shall pay for each bond.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.018. OFFICE. The board shall maintain an office within the boundaries of the district for conducting the business of the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.019. MEETINGS OF BOARD. The board shall hold regular meetings at the district's office at least once each month on a date established by rule of the board.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.020. MINUTES AND RECORDS. (a) The board shall keep a complete written account of all its meetings and other proceedings and shall preserve its minutes, contracts, records, plans, notices, accounts, receipts, and records of all kinds in a secure manner at the district's office.

(b) Minutes, contracts, records, plans, notices, accounts, receipts, and other records are the property of the district and are subject to public inspection.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.021. SEAL. The board shall adopt a seal for the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 325.031. GENERAL POWERS. To carry out this chapter, the district may:

(1) apply for, accept, receive, and administer gifts, grants, loans, and other funds available from any source;

(2) enter into contracts with the federal government and its agencies, the state and its agencies, local governmental entities including the county, and private entities;

(3) conduct, request, and participate in studies, investigations, and research relating to providing a sports facility; and

(4) advise, consult, and cooperate with the federal government and its agencies, the state and its agencies, local governmental entities including the county, and private entities.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.032. CONTRACTS. The board may enter into contracts as provided by this subchapter, and those contracts shall be executed by the board in the name of the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.033. RULES. The board may adopt rules to carry out this subchapter.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.034. SUITS; PAYMENT OF JUDGMENTS. (a) The district may, through its board, sue and be sued in any court of this state in the name of the district. Service of process in a suit may be had by serving the general manager.

(b) The courts of this state shall take judicial notice of the creation of the district.

(c) A court of this state that renders a money judgment against

the district may require the board to pay the judgment from money in the district depository that is not dedicated to the payment of any indebtedness of the authority.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.035. INSURANCE. The board may purchase insurance insuring the district and its employees for any liability incurred under this chapter and may purchase insurance coverage to cover losses of district property.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.036. ACQUISITION OF PROPERTY FOR SITE. (a) The district may acquire by gift, grant, purchase, or condemnation any land, easements, rights-of-way, and other property interests necessary to construct or improve a sports facility.

(b) The district may lease property on terms the board determines advantageous to the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.037. EMINENT DOMAIN. (a) The district may acquire land for a sports facility by condemnation if the board determines, after notice and hearing, that it is necessary.

(b) The right of eminent domain must be exercised in the manner provided by Chapter 21, Property Code, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party and is not required to deposit double the amount of any award in any suit.

(c) If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, or changing in grade, or alteration of the construction of any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, changing in grade, or alteration of construction shall be accomplished at the sole expense of the district. "Sole expense" means the actual cost

of relocation, raising, lowering, rerouting, or changing in grade, or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.038. DISTRICT TO ENTER INTO CONSTRUCTION CONTRACTS. The district may contract with any person to construct or improve any part of a sports facility.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.039. BIDS ON CONTRACTS FOR CONSTRUCTION. Construction contracts requiring an expenditure of more than $15,000 may be made only after competitive bidding as provided by Subchapter B, Chapter 271, Local Government Code.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 16, eff. Sept. 1, 1993.

Sec. 325.040. CHANGE ORDERS. After a construction contract is awarded, if the district determines that additional work is needed or if the character or type of work, facilities, or improvements should be changed, the board may authorize change orders to the contract on terms the board approves. A change made under this section may not increase or decrease the total cost of the contract by more than 25 percent. The board may grant authority to an official or employee responsible for purchasing or for administering a contract to approve a change order that involves an increase or decrease of $50,000 or less.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 479 (H.B. 679), Sec. 4, eff. June 17, 2011.

Sec. 325.041. ATTACHMENTS TO CONSTRUCTION CONTRACTS. A construction contract must contain, or have attached to it, the specifications, plans, and details for work included in the contract, and work shall be done according to those plans and specifications under the supervision of the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.042. EXECUTION AND AVAILABILITY OF CONSTRUCTION CONTRACTS. (a) A construction contract must be in writing and signed by an authorized representative of the district and the contractor.

(b) The contract is a district record and is subject to Section 325.020.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.043. CONTRACTOR'S BOND. (a) A contractor shall execute a bond. The bond must be in an amount determined by the board, not to exceed the contract price, payable to the district, approved by the board, and conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

(b) The bond must provide that if the contractor defaults on the contract, the contractor will pay to the district all damages sustained as a result of the default. The district shall deposit the bond in its depository and shall keep a copy of the bond in its main office.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.044. MONITORING CONSTRUCTION WORK. (a) The board has control of any construction, acquisition, or improvement of the sports facility for which it has contracted. The board shall determine whether or not the contract is being fulfilled.

(b) The board shall have the construction work inspected by engineers, inspectors, or other personnel of the district.

(c) During the progress of the construction work, the employees inspecting the work shall submit to the board written reports that

show whether the contractor is complying with the contract.

(d) On completion of construction work, the employees inspecting the work shall submit to the board a final detailed written report including information necessary to show whether the contractor has fully complied with the contract.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.045. PAYMENT FOR CONSTRUCTION WORK. (a) The district shall make monthly progress payments under construction contracts as the work proceeds, or at more frequent intervals as determined by the board.

(b) If requested by the board, the contractor shall furnish an analysis of the total contract price showing the amount included for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments.

(c) In making progress payments, the district shall retain 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the board, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, it may authorize any of the remaining progress payments to be made in full. Also, if the work is substantially complete, the board, if it finds the amount retained to be in excess of the amount adequate for the protection of the district, may release to the contractor all or a part of the excess amount.

(d) On completion and acceptance of each separate project, work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

(e) When construction work is completed according to the terms of the contract, the board shall draw a warrant on the depository to pay any balance due on the contract.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.046. CONTRACTS FOR PURCHASE OF VEHICLES, EQUIPMENT, AND SUPPLIES OVER $5,000. (a) If the estimated amount of a proposed contract for the purchase of vehicles, equipment, or supplies is more

than $15,000, the board shall ask for competitive bids in accordance with the bidding procedures provided by the County Purchasing Act (Subchapter C, Chapter 262, Local Government Code) except that the bids shall be presented to the board and the board shall award the contract.

(b) This section does not apply to purchases of property from public agencies or to contracts for personal or professional services.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 17, eff. Sept. 1, 1993.

Sec. 325.047. FEES AND CHARGES. (a) The board may adopt and enforce all necessary charges, fees, or rentals for providing any district facilities or service.

(b) The board may require a deposit for any service or facilities furnished and may provide that the deposit will bear interest.

(c) The board may discontinue a facility or service to prevent an abuse or enforce payment of an unpaid charge, fee, or rental due the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

SUBCHAPTER D. DISTRICT FINANCES

Sec. 325.061. FISCAL YEAR. (a) The district shall be operated on the basis of a fiscal year established by the board.

(b) The fiscal year may not be changed more than once in a 24-month period.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.062. ANNUAL AUDIT. Annually, the board shall have an audit made of the financial condition of the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.063. ANNUAL BUDGET. (a) The board shall prepare and approve an annual budget.

(b) The budget must contain a complete financial statement, including a statement of the:

(1) outstanding obligations of the district;

(2) amount of cash on hand to the credit of each fund of the district;

(3) amount of money received by the district from all sources during the previous year;

(4) amount of money estimated to be available to the district from all sources during the ensuing year;

(5) amount of the balances expected at the end of the year in which the budget is being prepared; and

(6) estimated amount of revenues and balances available to cover the proposed budget.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.064. AMENDING BUDGET. After the annual budget is adopted, the board may amend the budget.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.065. LIMITATION ON EXPENDITURES. Money may not be spent for an expense not included in the annual budget or an amendment to it.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.066. SWORN STATEMENT. As soon as practicable after the close of the fiscal year, the general manager shall prepare for the board a sworn statement of the amount of money that belongs to the district and an account of the disbursements of that money.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.067. DEPOSITORY. (a) The board shall name one or

more banks to serve as depository for district funds.

(b) District funds, other than those transmitted to a bank of payment for bonds issued by the district, shall be deposited as received with the depository bank. This subsection does not limit the power of the board to place a part of the district's funds on time deposit or to purchase certificates of deposit.

(c) Before the district deposits funds in a bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation, the bank must execute a bond or other security in an amount sufficient to secure from loss the district funds that exceed the amount secured by the Federal Deposit Insurance Corporation.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.068. INVESTMENTS. (a) Funds of the district may be invested and reinvested by the board or its authorized representative in direct or indirect obligations of the United States, the state, or any county, municipality, school district, or other political subdivision of the state.

(b) Funds of the district may be placed in certificates of deposit of state or national banks or state or federal savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the state.

(c) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for investments on terms the board considers advisable.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.069. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The board may pay all costs and expenses necessarily incurred in the creation and organization of the district, legal fees, and other incidental expenses and may reimburse any person for money advanced for those purposes.

(b) Payments may be made from money obtained from the sale of

bonds first issued by the district or other revenues of the district.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.070. BORROWING MONEY. The district may borrow money for any purpose authorized under this chapter or any combination of those purposes.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

SUBCHAPTER E. DISTRICT BONDS

Sec. 325.081. ISSUANCE OF BONDS. The board may issue revenue bonds in the name of the district to acquire land and construct facilities as provided by this chapter.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.082. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of the principal of and interest on the bonds from revenues of the district, including fees and lease income.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.083. FORM OF BONDS. (a) A district may issue its bonds in various series or issues.

(b) Bonds may mature serially or otherwise not more than 50 years from their date and shall bear interest at any rate permitted by the constitution and laws of the state.

(c) A district's bonds and interest coupons, if any, are investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest and may be made redeemable before maturity, at the option of the district, or may contain a mandatory redemption provision.

(d) A district's bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details, and shall be signed and executed as provided by the board in

the resolution or order authorizing their issuance.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.084. PROVISIONS OF BONDS. (a) In the orders or resolutions authorizing the issuance of bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds, and may make additional covenants with respect to the bonds, the pledged revenues, and the operation and maintenance of those improvements and facilities, the revenue of which is pledged.

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

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine.

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

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.085. APPROVAL BY ATTORNEY GENERAL; REGISTRATION BY COMPTROLLER. (a) Bonds issued by a district must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds have been authorized in accordance with law, the attorney general shall approve them, and they shall be registered by the comptroller of public accounts.

(c) After the approval and registration of bonds, the bonds are incontestable in any court or other forum, for any reason, and are valid and binding obligations in accordance with their terms for all purposes.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.086. BONDS AS INVESTMENTS. District bonds are legal and authorized investments for:

(1) banks;

(2) trust companies;

(3) savings and loan associations;

(4) insurance companies;

(5) fiduciaries;

(6) trustees;

(7) guardians; and

(8) sinking funds of municipalities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.087. BONDS AS SECURITY FOR DEPOSITS. District bonds are eligible to secure deposits of public funds of the state and municipalities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.088. TAX STATUS OF BONDS. Bonds issued by a district under this chapter, any transaction relating to the bonds, and profits made in the sale of the bonds, are free from taxation by the state or by any municipality, county, special district, or other political subdivision of the state.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.089. MANDAMUS BY BONDHOLDERS. In addition to all other rights and remedies provided by law, if the district defaults in the payment of principal, interest, or redemption price on its bonds when due or if it fails to make payments into any fund or funds created in the orders or resolutions authorizing the issuance of the

bonds or defaults in the observation or performance of any other covenants, conditions, or obligations set forth in the orders or resolutions authorizing the issuance of its bonds, the owners of any of the bonds are entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the district and its officials to observe and perform the covenants, obligations, or conditions prescribed in the orders or resolutions authorizing the issuance of the district's bonds.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.090. APPLICATION OF OTHER LAWS. Bonds of the district are considered public securities under Chapter 1201, Government Code.

Added by Acts 1989, 71st Leg., ch. 437, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.323, eff. Sept. 1, 2001.

CHAPTER 326. LIBRARY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 326.001. FINDINGS. The legislature finds that:

(1) children and other residents of many rural and suburban areas of the state do not have convenient access to a public library; and

(2) the creation of library districts in underserved areas would make valuable information resources more readily available to public school students and other residents of the state.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.002. PURPOSE. The purpose of a library district is to establish, equip, and maintain one or more public libraries for the dissemination of general information relating to the arts, sciences, and literature.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.003. DEFINITIONS. In this chapter:

(1) "Board" means the board of trustees of a district.

(2) "District" means a library district created under this chapter.

(3) "Municipal public library" means a library that is:

(A) financed and operated by a municipality; and

(B) open free of charge to all members of the public under identical conditions.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.004. DISTRICT AUTHORIZATION. (a) A library district may be created and must be maintained, operated, and financed as provided by this chapter.

(b) A district created under this chapter is a governmental agency, body politic and corporate, and political subdivision of the state.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 819, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 326.021. CONFIRMATION ELECTION. A district may be created and a sales and use tax may be authorized only if the creation is confirmed and the tax is approved by a majority of the qualified voters of the district voting at an election held for that purpose.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.022. TERRITORY INCLUDED IN A DISTRICT. (a) A district may include any contiguous territory within a single county.

(b) The district may include incorporated or unincorporated territory.

(c) If the boundaries of the proposed district include any territory that, on the date on which an election is ordered on the question of creating the district, is part of a municipality that operated a municipal public library, then the governing authority of that municipality must consent by resolution to allow the inclusion

of that municipal territory in the proposed district.

(d) After a district is created, the district may not be expanded to include additional territory unless the commissioners court of the county in which the district is located calls and holds an election for that purpose in the territory to be added to the district. The commissioners court may not expand the district unless a majority of the voters voting at the expansion election approve the expansion of the district.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 819, Sec. 2, eff. Sept. 1, 1999.

Sec. 326.023. PETITION FOR CREATION OF DISTRICT. (a) Before a district may be created, the commissioners court of the county in which the proposed district is located must receive a petition signed by at least five percent of the number of voters in the territory of the proposed district who voted in the most recent gubernatorial election.

(b) The petition must:

(1) include a name for the proposed district that describes the location of the district followed by the words "Library District";

(2) describe the boundaries of the proposed district by:

(A) metes and bounds;

(B) lot and block number, if there is a recorded map or plat and survey of the area; or

(C) other sufficient legal description;

(3) include the names of five persons who are willing and qualified to serve as the initial board of trustees of the district if elected at the election to create the district; and

(4) include the rate of the sales and use tax that would be imposed by the board of the proposed district on approval of the district.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 2, eff. Sept. 1, 2001.

Sec. 326.024. PAYMENT OF ELECTION COSTS. The commissioners

court may not order the creation of the district or a confirmation election until the petitioners deposit with the county clerk an amount of money equal to the cost of conducting the creation election of the proposed district, as computed by the county.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.025. FILING OF PETITION; HEARING; ORDERING ELECTION. (a) At the next regular or special session of the commissioners court held after the petition is filed with the commissioners court, the commissioners court shall consider the petition.

(b) The commissioners court shall grant the petition if the court finds that the petition is in proper form and conforms to the requirements of Section 326.023 and that the requirement of Section 326.024 is met.

(c) If a petition is granted, the commissioners court shall order an election to confirm the district's creation and to authorize the imposition of a sales and use tax.

(d) The election shall be held on the first authorized uniform election date under Chapter 41, Election Code, that occurs on or after the 45th day after the date the election is ordered.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.026. ELECTION ORDER. In addition to the elements required to be included by the Election Code, the election order must state:

(1) the ballot proposition stating the measure to be voted on;

(2) the hours that the polls will be open; and

(3) the location of each polling place.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.027. NOTICE. (a) The commissioners court shall give notice of the election by publishing a substantial copy of the election order once a week for two consecutive weeks in a newspaper with general circulation in the county in which the proposed district

is located.

(b) The notice must be published not earlier than the 30th day or later than the 10th day before election day.

(c) In addition to the elements required to be included by the Election Code, the notice of the election must state the names of the five board of trustee candidates.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.028. BALLOT PROPOSITION. (a) The ballot for the election shall be printed to permit voting for or against the proposition: "The creation of the _____ (name of district) and adoption of a local sales and use tax in the (name of district) at the rate of _____ (rate) percent to provide revenue for the district."

(b) The ballot shall be printed to permit voting for or against each of the five initial trustees listed in the petition submitted to the commissioners court under Section 326.023. A blank space must be printed after the name of each candidate, in each of which a voter may write in the name of another person for trustee.

(c) A voter may not vote for more than five persons for trustee.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.029. RESULTS OF ELECTION. (a) If a majority of the votes received in the election favor the creation of the district and the adoption of the sales and use tax, the commissioners court shall by resolution or order declare that the district is created and shall declare the amount of the local sales and use tax adopted and enter the result in its minutes.

(b) If a majority of the votes received in the election are against the creation of the district, the commissioners court shall declare the measure defeated and enter the result in its minutes.

(c) The order canvassing the results of the election must:

(1) contain a description of the district's boundaries and a map of the district;

(2) state the date of the election; and

(3) state the total number of votes cast for and against

the ballot proposition.

(d) The order issued by a commissioners court canvassing the results of the election must be filed in the deed records of the county in which the district is located.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.08, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 3, eff. Sept. 1, 2001.

Sec. 326.030. INITIAL TRUSTEES. (a) The commissioners court shall declare the five persons receiving the highest number of votes for trustee to be elected as trustees.

(b) The two trustees elected who received the fewest number of votes shall serve until the next board of trustees election following the confirmation election, and the three trustees who received the highest number of votes shall serve until the second succeeding trustee election after the confirmation election.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER C. DISTRICT ADMINISTRATION

Sec. 326.041. BOARD OF TRUSTEES. A district shall be governed by a board of five trustees.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.042. REGISTERED VOTER REQUIREMENT. A person may not be elected to the board of trustees unless the person is a resident of the district and a registered voter of the county in which the district is located.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.043. ELECTION OF TRUSTEES; TERM OF OFFICE. (a) Trustees shall serve two-year terms.

(b) The general election for trustees shall be held annually on an authorized uniform election date under Chapter 41, Election Code.

(c) Except for the initial members of the board of trustees, a candidate for the office of trustee must file an application for a place on the ballot in accordance with Chapter 144, Election Code, and other applicable provisions of that code.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.0431. WRITE-IN CANDIDACIES. Write-in votes may be counted only for names appearing on a list of write-in candidates, in the manner that Subchapter C, Chapter 146, Election Code, provides for counting write-in votes for city officers.

Added by Acts 2001, 77th Leg., ch. 61, Sec. 1, eff. Sept. 1, 2001.

Sec. 326.0432. ELECTION OF UNOPPOSED CANDIDATE. Subchapter C, Chapter 2, Election Code, applies to the election of an unopposed candidate for the office of trustee after the election of the initial members of the board of trustees.

Added by Acts 2001, 77th Leg., ch. 61, Sec. 1, eff. Sept. 1, 2001.

Sec. 326.044. BOARD VACANCY. A vacancy in the office of a trustee shall be filled by appointment by the remaining trustees.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.045. OFFICERS. After the trustees have assumed office, the trustees shall elect from among the trustees a president, a vice president, a secretary, and any other officers the board considers necessary.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.046. QUORUM; OFFICERS' DUTIES. (a) Three trustees constitute a quorum and a concurrence of three is sufficient in any matter relating to the business of the district.

(b) The president presides at all board meetings and is the chief executive officer of the district.

(c) The vice president acts as the president if the president is incapacitated or absent from a meeting.

(d) The secretary acts as the president if both the president and vice president are incapacitated or absent from a meeting.

(e) The secretary is responsible for ensuring that all the records and books of the district are properly kept.

(f) The board may appoint the library director or an employee as assistant or deputy secretary to assist the secretary. The assistant or deputy secretary may certify the authenticity of any record of the district.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.047. BYLAWS. The board may adopt bylaws to govern:

(1) the time, place, and manner of conducting board meetings;

(2) the powers, duties, and responsibilities of the board's officers and employees;

(3) the disbursement of money by a check, draft, or warrant;

(4) the appointment and authority of board committees;

(5) the keeping of accounts and other records; and

(6) any other matter the board considers appropriate.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.048. MEETINGS AND NOTICE. (a) The board may establish regular meetings to conduct district business and may hold special meetings at other times as the business of the district requires.

(b) The board shall hold its meetings at a designated meeting place.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.049. MANAGEMENT OF DISTRICT. (a) The board has

control over and shall manage the affairs of the district.

(b) The board shall employ any person, firm, partnership, or corporation the board considers necessary for conducting the affairs of the district.

(c) The board shall determine the term of office and compensation of any employee and consultant by contract or by resolution of the board.

(d) The board may remove any employee.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.050. LIBRARY DIRECTOR. The board may employ a library director to administer the affairs of the district under policies established by the board. The board shall set the compensation of the library director.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.051. BOND. The board may require an officer or employee to execute a bond payable to the district and conditioned on the faithful performance of the person's duties.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.052. TRUSTEE INTERESTED IN CONTRACT. (a) A trustee who is financially interested in a contract with the district, or a trustee who is an employee of a person that is financially interested in a contract with the district, shall disclose that fact to the other trustees. The disclosure shall be entered into the minutes of the meeting.

(b) A trustee who is financially interested in a contract may not vote on the acceptance of the contract or participate in the discussion on the contract.

(c) The failure of a trustee to disclose the trustee's financial interest in a contract and to have the disclosure entered in the minutes invalidates the contract.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 326.061. GENERAL POWERS OF DISTRICT. (a) A district has all of the powers, authority, rights, and duties that will permit the accomplishment of the purposes for which the district was created, including the power to borrow money, purchase, construct, acquire, own, operate, maintain, repair, or improve any land, works, materials, supplies, improvements, facilities, equipment, vehicles, machinery, or appliances as necessary for the district.

(b) If a district acquires existing improvements, facilities, plants, equipment, or appliances, the district may assume the contracts and obligations of the previous owner.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 300, Sec. 1, eff. Sept. 1, 2001.

Sec. 326.062. EMPLOYEE PLANS. (a) The board may provide for and administer a workers' compensation, health benefit, retirement, disability, or death compensation plan for the employees of the district.

(b) The board may adopt a plan to accomplish the purpose of this section.

(c) The board, after notice and a hearing, may change any plan or rule adopted under this section.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.063. SUITS. (a) A district may sue and be sued in any court of this state in the name of the district.

(b) All courts of this state shall take judicial notice of the establishment of a district.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.064. RULES. (a) The board may adopt reasonable rules to accomplish the purposes of the district.

(b) The board may set monetary charges in reasonable amounts

for the violation of a district rule.

(c) The board may exclude from the use of the library a person who wilfully violates a rule adopted by the board under this section.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.065. FEES. (a) A district may impose any necessary charges or fees for providing a district service.

(b) A district may discontinue a service to enforce payment of an unpaid charge or fee that is owed to the district.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.066. DEPOSITORY. (a) The board shall designate one or more banks inside or outside of the district to serve as the depository for district money.

(b) Tax revenue of the district shall be deposited in a depository bank.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.067. INVESTMENTS. (a) Tax revenue of the district may be invested in an obligation that is an authorized investment for the state.

(b) District money other than tax revenue may be invested in accordance with policies adopted by the board.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.068. EXPENDITURES. A district's money may be disbursed only by check, draft, order, or another instrument that must be signed by one or more officers or employees of the district as designated by the board of trustees.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.069. ACCOUNTS AND RECORDS; AUDITS. (a) The district shall keep a complete system of accounts.

(b) The district shall have an annual audit of the affairs of the district performed by an independent certified public accountant.

(c) A signed copy of the audit report shall be delivered to each trustee not later than the 120th day after the closing date of each fiscal year.

(d) A copy of the audit report shall be kept on file at the district office and shall be made available for inspection by any interested person during regular business hours.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.070. FISCAL YEAR. The fiscal year of the district is from January 1 to December 31, unless the board adopts another fiscal year.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.071. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The district may:

(1) pay all costs and expenses necessarily incurred in the creation and organization of the district; and

(2) reimburse any entity or person for money advanced for the costs and expenses described by Subdivision (1).

(b) Payments under this section may be made from money obtained from taxes or other revenue of the district.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.072. GIFTS, GRANTS, AND DONATIONS. A district may accept and administer a gift, grant, or donation from any source to carry out the purposes of this chapter.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 3, eff. Sept. 1, 1999.

SUBCHAPTER E. SALES AND USE TAX

Sec. 326.091. SALES AND USE TAX. (a) If a district adopts the tax, there is imposed a tax on the receipts from the sale at retail of taxable items in the district at a rate of up to one-half of one percent. There is also imposed an excise tax on the use, storage, or other consumption in the district of taxable items purchased, leased, or rented from a retailer during the period that the tax is effective in the district.

(b) For purposes of this section, "taxable items" includes all items subject to any sales and use tax that is imposed by the county if the county has imposed a sales and use tax.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.092. IMPOSITION, COMPUTATION, ADMINISTRATION, AND GOVERNANCE OF TAX. (a) Chapter 323, Tax Code, to the extent not inconsistent with this chapter, governs the imposition, computation, administration, and governance of the tax under this subchapter, except that Sections 323.101, 323.105, 323.404, and 323.406 through 323.408, Tax Code, do not apply.

(b) Chapter 323, Tax Code, does not apply to the use and allocation of revenue under this chapter.

(c) In applying the procedures under Chapter 323, Tax Code, to the district, the district's name shall be substituted for "the county" and "board of trustees" is substituted for "commissioners court."

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.09, eff. Oct. 1, 1999.

Sec. 326.093. TAX RATES. The permissible rates for a local sales and use tax levied under this chapter are one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, and one-half of one percent.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.094. ABOLITION OF OR CHANGE IN TAX RATE. (a) The

board by order may decrease or abolish the local sales and use tax rate or may call an election to increase, decrease, or abolish the local sales and use tax rate.

(b) At the election, the ballots shall be printed to permit voting for or against the proposition: "The increase (decrease) in the local sales and use tax rate of (name of district) to (percentage) to be used for the purposes of the district" or "The abolition of the district sales and use tax." The increase or decrease in the tax rate is effective if it is approved by a majority of the votes cast. In calling and holding the election, the board shall use the procedure for the confirmation and tax election set forth in this chapter.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

Sec. 326.095. USE OF TAX. Taxes collected under this subchapter may be used only for the purposes for which the district was created and may be pledged as collateral for borrowing money to further those purposes.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 300, Sec. 2, eff. Sept. 1, 2001.

Sec. 326.096. LIMITATION ON ADOPTION OF TAX. A district may adopt a tax under this subchapter only if as a result of adoption of the tax the combined rate of all local sales and use taxes imposed by political subdivisions having territory in the district will not exceed two percent.

Added by Acts 1997, 75th Leg., ch. 1204, Sec. 1, eff. Sept. 1, 1997.

CHAPTER 327. ZOOLOGICAL OPERATION AND MAINTENANCE BOARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 327.001. DEFINITIONS. In this chapter:

(1) "County" means the county that created the zoo board.

(2) "Director" means a zoo board member.

(3) "Zoo board" means a zoological operation and maintenance board created under this chapter.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

SUBCHAPTER B. CREATION OF ZOO BOARD

Sec. 327.051. COUNTIES AUTHORIZED TO CREATE ZOO BOARD. The commissioners court of a county with a population of more than 2.1 million that is adjacent to a county with a population of more than 2.1 million by order may authorize the creation of a zoo board under this chapter to establish, finance, and manage facilities and services to provide conservation, education, research, public recreation, and care relating to the study and display of animals and other specimens in a public zoological park.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 167, eff. September 1, 2023.

Sec. 327.052. ORDER CREATING ZOO BOARD. (a) The order authorizing the creation of a zoo board must specify that the zoo board:

(1) is being created under this chapter; and

(2) has the powers and duties provided in this chapter.

(b) The order authorizing the creation of the zoo board may also serve as the election order under Section 327.054.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.053. AUTHORITY TO TAX; ELECTION REQUIRED. The county may assess and collect a separate ad valorem tax to provide revenue for a zoo board that it has created. The tax may not exceed a rate of three cents per $100 valuation of taxable property, and the amount of the tax must be approved by a majority of the voters of the county voting at an election held for that purpose by the county.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.054. ELECTION ORDER. (a) An order for an election

under Section 327.053 must state:

(1) the nature of the election, including the proposition that is to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open;

(4) the location of the polling places; and

(5) the proposed maximum ad valorem tax rate.

(b) The election order may contain additional information about the zoo board that the county commissioners court considers appropriate to inform the voters of, including information about the zoo board's mission or finances.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.055. CONDUCT OF ELECTION. (a) The county shall hold the election under the Election Code to the extent not inconsistent with this chapter.

(b) The ballot for the election shall be printed to permit voting for or against the following summary of the proposition: "Authorizing _____ (name of county) to assess and collect a separate ad valorem tax, in an amount not to exceed _____ (rate, not to exceed three cents) cents per $100 valuation of taxable property, to fund the acquisition, construction, operation, and maintenance of one or more zoos to be operated for the county by the _____ (name of zoo board)."

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.056. ELECTION RESULTS. (a) Not earlier than the second day or later than the 13th day after the election date, the county shall canvass the election returns.

(b) If a majority of the votes cast favor the proposition under Section 327.055, the county may use the ad valorem taxing authority as provided in the proposition and this chapter.

(c) If less than a majority of the votes cast favor the proposition, the county may not order another election on the matter earlier than the anniversary of the date of the preceding election.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

SUBCHAPTER C. ORGANIZATION OF BOARD OF DIRECTORS

Sec. 327.101. BOARD OF DIRECTORS. (a) A zoo board consists of seven directors appointed by the county commissioners court as follows:

(1) one director appointed by each member of the county commissioners court; and

(2) two directors appointed jointly by the county commissioners court.

(b) Each director serves at the pleasure of the county commissioners court.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.102. VACANCY. A vacancy on the zoo board is filled in the same manner as the original appointment.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.103. OFFICERS. (a) The county commissioners court shall designate the presiding officer for the zoo board to serve in that capacity at the pleasure of the commissioners court.

(b) The zoo board shall elect a vice presiding officer, secretary, and treasurer from among its members.

(c) The offices of secretary and treasurer may be held by the same director. If either the secretary or treasurer is unavailable, the other officer, if the offices are held by different directors, may act for and perform the duties of the unavailable officer.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.104. MEETINGS. A zoo board shall hold regular meetings at times to be fixed by the zoo board or special meetings as necessary.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.105. COMPENSATION; EXPENSES. (a) A director serves without compensation but may be reimbursed for a reasonable and necessary expense, including a travel expense, incurred in performing an official duty.

(b) To receive reimbursement under Subsection (a):

(1) the director must report the expense in the zoo board's minute book or other zoo board record; and

(2) the zoo board must approve the expense.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.106. IMMUNITY FROM LIABILITY. A director is not liable for civil damages or criminal prosecution for any act performed in good faith in the execution of the director's duties or for any action taken by the zoo board.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

SUBCHAPTER D. ZOO BOARD POWERS AND DUTIES

Sec. 327.151. GENERAL POWERS. A zoo board may exercise any power necessary or appropriate to further a zoo board purpose, including establishing or operating one or more zoos.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.152. RULES. The zoo board may adopt rules to implement this chapter, including rules to govern the zoo board or manage zoos.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.153. EXECUTIVE DIRECTOR; RULES. (a) A zoo board may appoint an executive director to manage the zoo board's operations.

(b) The zoo board by rule may define the powers, duties, and compensation of the executive director.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.154. EMPLOYEES; RULES. (a) A zoo board may delegate to the executive director the power to hire and fire persons necessary to carry out the zoo board's duties.

(b) The zoo board may adopt rules regarding the powers, duties, qualifications, and compensation of zoo board employees.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.155. CONTRACTS--GENERAL; APPROVAL REQUIRED. (a) A zoo board may contract with any person, including a governmental entity, private vendor, or foreign state, for any zoo board purpose, including contracting with the following entities to furnish staff, facilities, equipment, programs, utilities, and services the board considers necessary or appropriate to effectively operate the zoo board or a zoo under its control:

(1) a municipality, county, special district, or other political subdivision of the state;

(2) a state or federal agency;

(3) an individual; or

(4) an entity in the private sector.

(b) A contract may be on terms and conditions and for the length of time as agreed to by the zoo board.

(c) Before entering into a contract under this section, the zoo board must obtain the approval of the county commissioners court.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.156. AGREEMENT TO OPERATE DISTRICT. (a) In selecting a person to operate a zoo under Section 327.155, the zoo board shall consider:

(1) the financial capability of the person;

(2) the experience and qualifications of the person; and

(3) the likelihood that the person will obtain from the United States Department of Agriculture:

(A) accreditation of a zoo; and

(B) necessary permits.

(b) The agreement may allow a reasonable time after it becomes

effective for the person to obtain accreditation and permits under Subsection (a)(3).

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.157. PROPERTY; APPROVAL REQUIRED. A zoo board may acquire and sell property for any zoo board purpose. Before the acquisition or sale, the zoo board must obtain the approval of the county commissioners court.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.158. PUBLIC PURPOSE OF DONATIONS, AGREEMENTS, OR TRANSFERS WITH OR FROM OTHER POLITICAL ENTITIES; EXCEPTION TO COMPETITIVE BIDDING. (a) A governmental entity, including a municipality, county, special district, or other political subdivision of the state, may sell, lease, donate, or otherwise transfer to a zoo board a zoo, zoo-related property, or any other property on a finding by the transferring entity that the action is being carried out to further the public purpose of providing and maintaining the zoo-related property.

(b) The entity may make the transfer without complying with laws on competitive bids or proposals.

(c) Before making a transfer under this section, the governmental entity must obtain the approval of the county commissioners court.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.159. ZOO BOARD RECORDS. (a) A zoo board shall:

(1) keep a complete account of each zoo board meeting or other proceeding; and

(2) maintain zoo board records in a secure manner.

(b) The records are the property of the zoo board.

(c) The commissioners court of the county and other county officers may inspect zoo board records at all reasonable times during regular business hours.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.160. DONATIONS. (a) A zoo board may accept a donation, grant, or other gift from any person for any zoo board purpose.

(b) Before accepting a donation, grant, or other gift under this section, the zoo board must obtain the approval of the county commissioners court.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.161. SUITS; SERVICE OF PROCESS; LEGAL SERVICES. (a) A zoo board may sue and be sued.

(b) In a suit against a zoo board, process may be served on a director or registered agent.

(c) The county or district attorney may perform any necessary legal services for the zoo board.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.162. SUPERVISION BY COUNTY. (a) The county commissioners court may supervise the zoo board in the exercise of all powers and duties under this chapter, including Subchapter E.

(b) The county commissioners court may decide to approve all zoo board budgets or contracts, leases, deeds, or other agreements. An appropriate entry in the minutes of the commissioners court of the county is sufficient evidence of approval.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.163. SEAL. A zoo board shall adopt a seal for the zoo board.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Sec. 327.201. GENERAL ZOO BOARD AND COUNTY POWER OVER FUNDS. A zoo board shall manage and control zoo board funds subject to the supervision or approval of the county commissioners court under Section 327.162 and subject to the approval of the county commissioners court of a budget under Section 327.207.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.202. ACCOUNTING AND CONTROL PROCEDURES. A zoo board by rule may adopt accounting and control procedures for the zoo board, subject to the supervision of the county commissioners court under Section 327.162.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.203. PURCHASING AND EXPENDITURE METHOD. A zoo board by rule may prescribe the zoo board's method of making purchases and expenditures.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.204. FISCAL YEAR. (a) A zoo board by rule shall establish the zoo board's fiscal year.

(b) The zoo board may not change the fiscal year more than once in a two-year period.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.205. ANNUAL AUDIT REQUIRED. A zoo board shall have an annual audit of the zoo board's financial condition performed by an independent auditor.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.206. ANNUAL BUDGET PROPOSAL. (a) A zoo board shall propose an annual budget.

(b) The proposed budget must contain a complete financial statement, including the:

(1) outstanding zoo board obligations;

(2) amount of cash on hand to the credit of each zoo board fund;

(3) amount of money received by the zoo board from all sources during the previous year;

(4) estimated amount of money available to the zoo board from all sources during the current fiscal year;

(5) amount of money needed to fund programs approved for funding by the zoo board;

(6) amount of the balances expected at the end of the fiscal year in which the budget is being prepared; and

(7) estimated amount of revenue and balances available to cover the proposed budget.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.207. ADOPTION OF ANNUAL BUDGET; HEARINGS. (a) Not later than the 100th day before the date each fiscal year begins, the zoo board shall hold a public hearing on the proposed annual budget.

(b) The zoo board shall publish notice of the hearing in a newspaper with general circulation in the county not later than the 10th day before the date of the hearing.

(c) Any county resident is entitled to be present and participate at the hearing.

(d) Not later than the 80th day before the date each fiscal year begins, the zoo board shall adopt a budget. The zoo board may make any changes in the proposed budget that in its judgment the interests of the taxpayers demand.

(e) Not later than the 10th day after the date the budget is adopted, the zoo board shall submit the budget, with any revisions, to the county commissioners court.

(f) The budget is not considered final until the county commissioners court has approved the budget, including any revisions, after a public hearing and a vote by the commissioners court in favor of approval.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.208. LIMITATIONS ON EXPENDITURES AND INVESTMENTS. (a) A zoo board may not spend money unless the expense is included in the annual budget.

(b) A zoo board may not incur a debt payable from zoo board revenue except for revenue in the current or immediately following fiscal year.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.209. ACCOUNT OF ZOO BOARD DISBURSEMENTS. Not later than the 60th day after the last day of each fiscal year, a zoo board employee shall prepare for the zoo board a sworn statement showing:

(1) the zoo board's funds; and

(2) the disbursements of those funds.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

SUBCHAPTER F. BONDS

Sec. 327.251. GENERAL OBLIGATION BONDS. The county commissioners court may issue and sell bonds to acquire, construct, equip, or enlarge any zoo or zoo-related property, including a zoo board building or other facility.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.252. TAXES TO PAY BONDS. (a) When the county issues bonds under this chapter, the county commissioners court shall impose an ad valorem tax on all property subject to county taxation.

(b) The tax amount must be sufficient to create an interest and sinking fund to pay the principal of and interest on the bonds as they mature.

(c) The proceeds of the tax shall be used to pay the principal of, interest on, and other fees and charges relating to the bonds.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.253. AUTHORITY FOR BOND ELECTION. The county

commissioners court may order a bond election on its own motion or on the zoo board's request.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.254. EXECUTION OF BONDS. The county judge shall execute the bonds and the county clerk shall countersign the bonds.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

SUBCHAPTER G. TAXES

Sec. 327.301. ANNUAL PROPERTY TAXES. (a) The county annually shall impose a separate ad valorem tax in an amount not to exceed the limit approved by the voters under Subchapter B.

(b) The taxes may be used to pay:

(1) the bonds issued by:

(A) the county under Subchapter F; or

(B) any other governmental entity for property transferred by that entity under Section 327.158; or

(2) maintenance or other expenses of the zoo board.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

Sec. 327.302. TAX RATE. In adopting the tax rate, the county may consider the zoo board's income from sources other than taxation.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

SUBCHAPTER H. DISSOLUTION

Sec. 327.351. DISSOLUTION BY COUNTY. (a) The county commissioners court may dissolve the zoo board if all zoo board debts and obligations have been discharged.

(b) Any property remaining after dissolution is transferred to the county.

Added by Acts 2003, 78th Leg., ch. 1235, Sec. 1, eff. June 20, 2003.

CHAPTER 330. MISCELLANEOUS PROVISIONS

Sec. 330.001. OPERATION AND FINANCING OF COUNTY MUSEUMS. (a) This section applies only to a county that has substantial urban areas and borders on an international boundary. For the purposes of this subsection, a county has substantial urban areas only if at least four municipalities, each with a population of more than 25,000, are located in the county.

(b) A county may construct or operate a museum in the county to display, construct, restore, preserve, maintain, or reconstruct buildings, works of art, and related furnishings for exhibitions.

(c) A county may contract with an entity operating a museum in the county to provide the museum described by Subsection (b). To be eligible to enter into the contract, the entity must be:

(1) organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); and

(2) accredited by a nationally recognized association of museums acceptable to the county.

(d) As part of the contract, the commissioners court may appropriate money from the general fund of the county to the museum to purchase, display, construct, restore, preserve, maintain, operate, or reconstruct a building, work of art, or related furnishings used by the museum to further its exhibitions or operations and to promote county purposes under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 738 (H.B. 2796), Sec. 1, eff. June 15, 2007.

SUBTITLE C. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 331. MUNICIPAL AND COUNTY AUTHORITY TO ACQUIRE AND MAINTAIN PARKS, MUSEUMS, AND HISTORIC SITES

Sec. 331.001. GENERAL AUTHORITY. (a) A municipality or county may improve land for park purposes and may operate and maintain parks. The authority to improve the land includes the authority to construct buildings, lay out and pave driveways and walks, construct ditches or lakes, and set out trees and shrubs.

(b) A municipality or county may by gift, devise, purchase, or eminent domain proceeding acquire:

(1) land and buildings to be used for public parks,

playgrounds, or historical museums; or

(2) land on which are located:

(A) historic buildings, sites, or landmarks of statewide historical significance associated with historic events or personalities;

(B) prehistoric ruins, burial grounds, or archaeological or vertebrate paleontological sites; or

(C) sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historic buildings, markers, monuments, or historical features.

(c) Land acquired by a municipality under Subsection (b) may be situated inside or outside the municipality but must be within the county in which the municipality is situated, and land acquired by a county under Subsection (b) must be within the limits of the county. The land may be acquired in any size tract considered suitable by the governing body of the municipality or county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(s), eff. Aug. 28, 1989.

Sec. 331.002. ACQUISITION OF HISTORIC OBJECTS. A municipality or county may acquire by gift or purchase, individually or in a collection, any historic book, painting, sculpture, coin, or other object or collection of historical significance to the municipality or county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 331.003. EMINENT DOMAIN. A municipality or county may exercise eminent domain under Section 331.001(b) for the acquisition of a historic site, building, or structure only on a showing that it is necessary to prevent the destruction or deterioration of the site, building, or structure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 331.004. BONDS AND TAXES. (a) A municipality or county may issue negotiable bonds for the purpose of acquiring or improving

land, buildings, or historically significant objects for park purposes or for historic or prehistoric preservation purposes, and may assess, levy, and collect ad valorem taxes to pay the principal of and interest on those bonds and to provide a sinking fund.

(b) The issuance of the bonds and the levy of the taxes shall be in accordance with Subtitles A and C, Title 9, Government Code.

(c) There is no limit on the amount of taxes that may be levied for the operation and maintenance expenses of parks or for the payment of the principal of and interest on the bonds except for the limits provided by the Texas Constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.324, eff. Sept. 1, 2001.

Sec. 331.005. MANAGEMENT OF FACILITIES. (a) Parks acquired under this chapter are under the control and management of the municipality or county acquiring the park. The commissioners court or the governing body of the municipality may by agreement with the Parks and Wildlife Department turn the land over to the department to be operated as a public park. The expenses of the improvement and operation of the park shall be paid by the municipality or county according to the agreement with the department.

(b) A historic or prehistoric site, historical museum, or historically significant object acquired under this chapter is under the control and management of the municipality or county that acquired it.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 331.006. CONCESSIONS. (a) The management of any park, historical museum, or historic or prehistoric site acquired under this chapter may sell or lease concessions or privileges for the establishment of amusements, stores, gasoline stations, and other concerns consistent with the operation of a public park and the preservation of noteworthy features of a historic or prehistoric site or historical museum.

(b) The proceeds of the sales and leases may be used only for the improvement and operation of the park, museum, or site. However, the proceeds of the sales or leases in connection with a municipal

park may also be used for the support, maintenance, and upkeep of other municipal parks.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 331.007. PUBLIC USE. A park, a playground, a historical museum and its contents, or a historic or prehistoric site acquired and maintained under this chapter shall be open for the use of the public under rules prescribed by the governing body of the park, playground, museum, or site.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 331.008. MUNICIPAL AND COUNTY COOPERATION. (a) A municipality and a county may act in cooperation with each other in the exercise of authority under this chapter. A park, playground, museum, or site acquired jointly by a municipality and county acting in cooperation is under joint management and control.

(b) If a municipality owns land outside its limits that is devoted to use as a playground or park and is adjacent to land that is owned by the county in which the municipality is situated and that is devoted to use as a public park, the municipality or county may purchase the adjacent land from the other on terms agreed to by each. The purchased land must be used in connection with the adjacent lands and devoted to use as a playground or park. The consideration for the purchase must be sufficient to provide for the payment of any outstanding bonded indebtedness incurred by the seller in acquiring the land. All sums credited to the sinking fund for the indebtedness shall be subtracted from the face value of the unpaid bonds in determining the outstanding indebtedness.

(c) A municipality and the county in which the municipality is located that separately own adjacent land that is outside the municipal limits and is dedicated to use as a park or playground may by lease or other arrangement provide for the single management and control of the land. The agreement may be for any period and on any terms agreed to by the municipality and county. The agreement must vest exclusive management and control of the entirety of the lands for the benefit of the public as a recreational park or playground in the governing body of the municipality or the commissioners court of

the county. Such an agreement does not affect the power of either the municipality or the county to contribute funds to the maintenance and improvement of the park or playground or the facilities of the park or playground.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 331.009. ROAD CLOSINGS. A roadway on land acquired by a municipality for park purposes outside the municipal limits, or a roadway that abuts on both sides land that the municipality or county may dedicate to the management and control of the other under Section 331.008, may be closed by order of the commissioners court of the county in which the roadway is located. All rights that the state may have in the roadway as a result of a previous dedication are canceled and surrendered to the county or municipality, as appropriate.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 331.010. COOPERATION OF STATE AGENCIES. (a) The Parks and Wildlife Department may cooperate with a municipality or county in the acquisition and establishment of parks and playgrounds, and may adopt rules for the acquisition, establishment, and operation of the parks and playgrounds with the municipality or county as the department and the municipality or county consider advisable.

(b) The governor and the Texas Board of Criminal Justice may permit the use of state inmates and defendants confined in state jail felony facilities for the improvement and maintenance of parks acquired under this chapter under agreements made by the Parks and Wildlife Department and the municipality or county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.130, eff. September 1, 2009.

CHAPTER 332. MUNICIPAL AND COUNTY RECREATIONAL PROGRAMS AND FACILITIES

SUBCHAPTER A. MUNICIPAL AND COUNTY AUTHORITY

Sec. 332.001. DEFINITIONS. In this subchapter:

(1) "Governing body" means a governing body of a municipality or commissioners court of a county, or another body acting in place of the municipal governing body or commissioners court.

(2) "Board" means a board, commission, committee, or council appointed or designated to carry out this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 332.002. ESTABLISHMENT AND OPERATION OF RECREATIONAL FACILITIES AND PROGRAMS. A municipality or county may establish, provide, acquire, maintain, construct, equip, operate, and supervise recreational facilities and programs, either singly or jointly in cooperation with one or more other municipalities or counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 332.003. REFERENDUM. A municipality or county may submit in an election of its qualified voters the question of whether it should exercise the powers conferred by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 332.004. FINANCES. (a) A municipality or county may pay costs and expenses of carrying out this subchapter from its general revenues or from other revenues provided by law for the establishment or the operation of parks and recreational facilities.

(b) Municipalities and counties jointly exercising the powers by this subchapter may agree on the manner and method of division of costs and expenses.

(c) Renumbered as V.T.C.A. Local Government Code, Sec. 445.022 by Acts 1993, 73rd Leg., ch. 107, Sec. 8.02, eff. Aug. 30, 1993.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 807, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 107, Sec. 8.02, eff. Aug. 30, 1993.

Sec. 332.005. ADMINISTRATION. A governing body may administer and operate recreational facilities and programs through a bureau or department of recreation or through a board established jointly with another governing body. The board shall adopt rules for the administration and operation of the recreational facilities and programs under its control subject to the approval of the establishing governing bodies.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 332.006. GRANTS. A municipality or county may accept a grant, a lease, a loan or devise of real estate, a gift or bequest of money, either principal or income, or any other personal property for temporary or permanent use for the establishment, operation, or support of public recreation facilities and programs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. JOINT FACILITIES FOR POLITICAL SUBDIVISIONS

Sec. 332.021. JOINT RECREATIONAL FACILITIES. (a) Any two political subdivisions, including municipalities and independent school districts, that are located in the same or adjacent counties may jointly by agreement establish, provide, maintain, construct, and operate playgrounds, recreation centers, athletic fields, swimming pools, and other park or recreational facilities located on property owned or acquired by either political subdivision.

(b) The political subdivisions acting jointly may issue bonds and otherwise act under either Subchapter A, Chapter 1504, Government Code, or Subchapter C, Chapter 1508, Government Code, for the purposes authorized by this section. The political subdivisions may issue the bonds and take other joint actions under their agreement by joint concurrent ordinances or resolutions.

(c) The political subdivisions may delegate supervision and management of the facilities to an operating board or agency.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.325, eff. Sept. 1, 2001.

CHAPTER 333. JOINT MUNICIPAL-COUNTY MUSEUMS

Sec. 333.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of managers of a joint municipal and county museum.

(2) "Governing body" means a commissioners court of a county or a governing body of a municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 333.002. JOINT MUSEUM. The governing bodies of a county with a population of 20,000 or less and a municipality that has a population of 10,000 or more and that is located within the county may jointly erect, equip, maintain, and operate a museum.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 333.003. FINANCES. The museum may be financed out of the general revenues of the municipality and county in agreed proportions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 333.004. BOARD OF MANAGERS. By resolution or other proper action, the governing bodies may delegate to a board of managers full authority to erect, maintain, own, and equip a museum and to own, lease, or sublet realty for the museum.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 333.005. COMPOSITION OF BOARD; TERMS. (a) The board must be composed of nine members, with four members appointed by each governing body and one appointed jointly by the governing bodies.

(b) Members serve for staggered terms of four years. In appointing the initial board, each governing body shall designate one appointee to serve for a one-year term, one to serve for a two-year

term, one to serve for a three-year term, and one to serve for a four-year term. The member appointed jointly shall serve for a four-year term. Terms expire on the appropriate anniversary of the date of appointment.

(c) A vacancy occurring on the board by death or resignation shall be filled for the unexpired term by appointment of the governing body that appointed the vacating member or by joint appointment, as applicable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 333.006. OFFICERS. (a) The board shall select from its membership a presiding officer. The presiding officer shall:

(1) preside over all board meetings; and

(2) sign all contracts, agreements, and other instruments executed by the board on behalf of the county and the municipality.

(b) The board may elect other officers from its membership as it considers necessary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 333.007. CONTRACTS, GRANTS, AND EXPENDITURES. (a) The board may enter into any contract connected with or incident to the establishment, equipping, maintaining, and operating of the museum.

(b) The board may borrow and receive, exchange, sell, and lend property for the benefit of the museum.

(c) The board may accept on behalf of the municipality and county a gift or bequest. A gift or loan of property must be administered as designated by the donor.

(d) The board may pay and disburse funds set aside by the municipality and county for purposes connected with operating and maintaining the museum as if the action were taken by the governing bodies.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 333.008. FINANCIAL STATEMENT AND BUDGET. (a) Once each year the board shall prepare and present to the governing bodies a

complete financial statement on the condition of the museum and shall submit to those bodies a proposed budget for the anticipated financial needs for the next year.

(b) On the basis of the financial statement and budget, the governing bodies shall appropriate and set aside for the use of the board the amount of money the bodies consider necessary for the operation of the museum.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 333.009. PERSONNEL. (a) The board may hire a manager of the museum. With the consent of the board, the manager may hire other personnel.

(b) The manager and other personnel are subject to the bylaws and rules adopted by the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 334. SPORTS AND COMMUNITY VENUES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 334.001. DEFINITIONS. In this chapter:

(1) "Active transportation" means transportation that is wholly or primarily powered by human energy. The term includes walking, running, and bicycling.

(1-a) "Approved venue project" means a sports and community venue project that has been approved under this chapter by the voters of a municipality or county.

(2) "Governing body" means the governing body of a municipality or the commissioners court of a county.

(3) "Related infrastructure" includes any store, restaurant, on-site hotel, concession, automobile parking facility, area transportation facility, road, street, water or sewer facility, park, or other on-site or off-site improvement that relates to and enhances the use, value, or appeal of a venue, including areas adjacent to the venue, and any other expenditure reasonably necessary to construct, improve, renovate, or expand a venue, including an expenditure for environmental remediation.

(4) "Venue" means:

(A) an arena, coliseum, stadium, or other type of area

or facility:

(i) that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including rodeos, livestock shows, agricultural expositions, promotional events, and other civic or charitable events, provided that a facility financed wholly or partly with revenue from a tax imposed under Subchapter H is not, or will not be, primarily used for community, civic, and charitable events that are attended only by residents of the community; and

(ii) for which a fee for admission to the events is charged or is planned to be charged;

(B) a convention center, a convention center facility as defined by Section 351.001(2) or 352.001(2), Tax Code, or a related improvement such as a civic center hotel, theater, opera house, music hall, rehearsal hall, park, zoological park, museum, aquarium, or plaza located in the vicinity of a convention center or facility owned by a municipality or a county, provided that a related improvement for a facility financed wholly or partly with revenue from a tax imposed under Subchapter H must be in the vicinity of the convention center;

(C) a tourist development area;

(D) a municipal parks and recreation system, or improvements or additions to a parks and recreation system, or an area or facility, including an area or facility for active transportation use, that is part of a municipal parks and recreation system;

(E) a project authorized by Section 4A or 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as that Act existed on September 1, 1997;

(F) a watershed protection and preservation project; a recharge, recharge area, or recharge feature protection project; a conservation easement; or an open-space preservation program intended to protect water; and

(G) an airport facility located in a municipality located on the international border.

(5) "Sports and community venue project" or "venue project" means a venue and related infrastructure that is planned, acquired, established, developed, constructed, or renovated under this chapter.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 784, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1044, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 189, Sec. 1, eff. June 2, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 966 (H.B. 1908), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 267 (H.B. 1896), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 1, eff. June 15, 2017.

Sec. 334.002. APPLICATION TO CERTAIN MUNICIPALITIES AND COUNTIES. This chapter applies to a municipality with a population of more than 1.9 million and to a county with a population of more than 3.3 million only if the municipality and county create a sports and community venue district under Chapter 335 and only to the extent the use of this chapter by the district is necessary or convenient for the creation or operation of the district to the fullest extent authorized by Chapter 335.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 98, eff. Sept. 1, 2001.

Sec. 334.003. APPLICATION TO VENUE CONSTRUCTED UNDER OTHER LAW. (a) Except as provided by Subsection (b), a county or municipality may use this chapter for a venue project relating to a venue and related infrastructure planned, acquired, established, developed, constructed, or renovated under other law, including Chapter 505 of this code or Subchapter E, Chapter 451, Transportation Code.

(b) For a venue and related infrastructure planned, acquired, established, developed, constructed, or renovated under other law, a county or municipality may not use revenue from a method of financing approved at an election held under this chapter for the purpose of improving, renovating, or expanding the venue or related infrastructure to:

(1) demolish the venue; and

(2) subsequently construct a new venue.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 490 (S.B. 191), Sec. 1, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.19, eff. April 1, 2009.

Sec. 334.004. OTHER USES OF VENUE PERMITTED. This chapter does not prohibit the use of a venue for an event that is not related to a purpose described by Section 334.001, such as a community-related event.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.005. SPECIFIC PERFORMANCE. (a) The legislature expressly finds and determines that:

(1) the presence of a professional sports team in an approved venue project built or renovated under this chapter provides a unique value to the municipality or county that built or renovated the project that cannot be adequately valued in money; and

(2) the municipality or county that built or renovated the approved venue project would suffer irreparable injury if a professional sports team breaches its obligation to play its home games in the approved venue project as required by an agreement between the sports team and the municipality or county.

(b) An agreement described by Subsection (a)(2) shall be enforceable by specific performance in the courts of this state. A waiver of this remedy is contrary to public policy and is unenforceable and void.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.006. PROHIBITION AGAINST TAX EXPANSION. In a county with a population of over 2.8 million, no tax on real property or on personal property may be used for the operation, maintenance, renovation, or repair of any venue authorized by an election on November 5, 1996, and constructed after that date.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.007. RESTRICTION ON USE OF WATER OBTAINED AS RESULT OF ACQUISITION OF PROPERTY. Water obtained as a result of an acquisition of property for a project described by Section 334.001(4)(F) may be used only for the maintenance of that property.

Added by Acts 2003, 78th Leg., ch. 189, Sec. 3, eff. June 2, 2003.

Sec. 334.008. PARKS AND RECREATION SYSTEM AS VENUE PROJECT: CERTAIN COUNTIES. (a) A county that contains no incorporated territory of a municipality may provide for the planning, acquisition, establishment, development, construction, or renovation of a county parks and recreation system as a venue project under this chapter if the county:

(1) is located on an international border and has a population of less than 15,000; or

(2) has a population of less than 2,000.

(b) The venue project authorized by Subsection (a) includes:

(1) improvements or additions to the county parks and recreation system; and

(2) an area or facility that is part of the county parks and recreation system.

(c) To the extent that a provision of this chapter, including Sections 334.024(f), 334.1015, and 334.2515, applies to a venue project that is a municipal parks and recreation system or facility, those provisions apply to a venue project authorized by this section, and references to a municipality are considered references to a county to which this section applies.

(d) A county that authorizes a venue project described by this section maintains the authority granted under this section even if at a later time a part of the county becomes incorporated in a municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 658 (H.B. 1166), Sec. 1, eff. June 15, 2007; Acts 2007, 80th Leg., R.S., Ch. 869 (H.B. 1524), Sec. 1, eff. June 15, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.007, eff.

September 1, 2009.

Sec. 334.0082. VENUE PROJECTS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that:

(1) has a population of at least 250,000 that borders the Rio Grande, and that approved a sports and community venue project before January 1, 2009; or

(2) is located in a county adjacent to the Texas-Mexico border if:

(A) the county has a population of at least 500,000;

(B) the county does not have a city located within it that has a population of at least 500,000; and

(C) the municipality is the largest municipality in the county described by this subdivision.

(b) Notwithstanding any other law, including Section 334.089, after complying with Section 334.022, a municipality to which this section applies may hold an election under Section 334.024 on the question of approving and implementing a resolution to:

(1) authorize the municipality to plan, acquire, establish, develop, construct, or renovate a convention center and related infrastructure in the city limits of the municipality as part of an existing or previously approved sports and community venue project, regardless of whether the convention center is located on the premises of the existing or previously approved venue project;

(2) impose a tax under Subchapter H at a rate not to exceed two percent of the cost of a room; and

(3) authorize the municipality to finance, operate, and maintain the venue project described by Subdivision (1), including the convention center, using the revenue from any taxes imposed by the municipality under this chapter, including taxes previously approved in relation to the existing or previously approved venue project.

(c) If the resolution is approved by a majority of the votes cast in the election, the municipality may implement the resolution.

Added by Acts 2009, 81st Leg., R.S., Ch. 264 (H.B. 2032), Sec. 1, eff. May 30, 2009.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 168, eff.

September 1, 2023.

Sec. 334.0083. VENUE PROJECTS IN CERTAIN COUNTIES. (a) In this section, "venue" has the meaning assigned by Section 334.001 and includes a tourism development project such as a park, aquarium, birding center, bird viewing site, history center, art center, nature center, nature trail, museum, or water-related project that creates or enhances an activity involving water sports or fishing.

(b) A county with a population of 40,000 or less in which at least one state park and one national wildlife refuge are located may plan, acquire, establish, develop, construct, or renovate a venue as a venue project under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 908 (S.B. 803), Sec. 1, eff. June 17, 2011.

SUBCHAPTER B. VENUE PROJECTS

Sec. 334.021. RESOLUTION AUTHORIZING PROJECT. (a) A county or municipality by resolution may provide for the planning, acquisition, establishment, development, construction, or renovation of a venue project if:

(1) the comptroller determines under Section 334.022 or 334.023 that the implementation of the resolution will not have a significant negative fiscal impact on state revenue;

(2) to the extent required by Section 334.0235 or 334.0236, a rapid transit authority determines that the implementation of the resolution will not have a significant negative impact on the authority's ability to provide services and will not impair any existing contracts; and

(3) the resolution is approved by a majority of the qualified voters of the municipality or county voting at an election called and held for that purpose under Section 334.024.

(b) The resolution must designate each venue project and each method of financing authorized by this chapter that the municipality or county wants to use to finance a project. A resolution may designate more than one method of financing.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.022. STATE FISCAL IMPACT ANALYSIS. (a) Before calling an election on the resolution under Section 334.024, the municipality or county shall send a copy of the resolution to the comptroller.

(b) Before the 15th day after the date the comptroller receives the copy of the resolution, the comptroller shall:

(1) perform an analysis to determine if approval and implementation of the resolution will have a significant negative fiscal impact on state revenue; and

(2) provide to the municipality or county written notice of the results of the analysis.

(c) If the comptroller determines that implementation will have a significant negative fiscal impact on state revenue, the written analysis required under Subsection (b)(2) must include information on how to change the resolution so that implementation will not have a significant negative fiscal impact on state revenue.

(d) If the comptroller does not complete the analysis and provide the notice before the 30th day after the date the comptroller receives the copy of the resolution, the comptroller is considered to have determined that approval and implementation of the resolution will not have a significant negative fiscal impact on state revenue.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.023. APPEAL OF COMPTROLLER DETERMINATION. (a) If the comptroller determines under Section 334.022 that implementation of the resolution will have a significant negative fiscal impact on state revenue, the municipality or county may contest the finding by filing an appeal with the comptroller not later than the 10th day after the date the municipality or county receives the written notice under Section 334.022.

(b) Before the 11th day after the date the comptroller receives the appeal under Subsection (a), the comptroller shall perform a new analysis to determine if implementation of the resolution will have a significant negative fiscal impact on state revenue and provide to the municipality or county written notice of the results of the analysis.

(c) If the comptroller again determines that implementation will have a significant negative fiscal impact on state revenue, the

written analysis required under Subsection (b) must include additional information on how to change the resolution so that implementation will not have a significant negative fiscal impact on state revenue.

(d) If the comptroller does not comply with Subsection (b) before the 30th day after the date the comptroller receives the appeal or request for information, the comptroller is considered to have determined that approval and implementation of the resolution will not have a significant negative fiscal impact on state revenue.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.0235. TRANSPORTATION AUTHORITY IMPACT ANALYSIS. (a) If the resolution contains a proposed sales and use tax under Subchapter D, and imposition of the tax would result in the reduction of the tax rate of a rapid transit authority created under Chapter 451, Transportation Code, or a regional transportation authority created under Chapter 452, Transportation Code, the municipality or county shall send a copy of the resolution to the authority before calling an election on the resolution under Section 334.024.

(b) Before the 30th day after the date the rapid transit authority receives the copy of the resolution, the authority shall:

(1) perform an analysis to determine if implementation of the proposed sales and use tax and the resulting reduction in the authority's tax rate will:

(A) have a significant negative impact on the authority's ability to provide services; or

(B) impair any existing contracts; and

(2) provide to the municipality or county written notice of the results of the analysis.

(c) If the rapid transit authority determines that implementation of the resolution will have a significant negative impact on the authority's ability to provide services or will impair any existing contracts, the written analysis required under Subsection (b)(2) must include information on how to change the resolution so that implementation will not have a significant negative impact on the authority's ability to provide service or will not impair any existing contracts.

(d) If the rapid transit authority does not complete the

analysis and provide the notice before the 30th day after the date the authority receives the copy of the resolution, the authority is considered to have determined that implementation of the resolution will not have a significant negative impact on the authority's ability to provide services and will not impair any existing contracts.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.0236. APPEAL OF AUTHORITY DETERMINATION. (a) If a rapid transit authority determines under Section 334.0235 that implementation of the resolution will have a significant negative impact on the authority's ability to provide services or will impair an existing contract, the municipality or county may contest the finding by filing an appeal with the authority not later than the 10th day after the date the municipality or county receives the written notice under Section 334.0235.

(b) Before the 11th day after the date the rapid transit authority receives the appeal under Subsection (a), the authority shall perform a new analysis to determine if implementation of the resolution will have a significant negative impact on the authority's ability to provide services or will impair an existing contract and provide to the municipality or county written notice of the results of the analysis.

(c) If the authority again determines that implementation will have a significant negative impact on the authority's ability to provide services or will impair an existing contract, the written analysis required under Subsection (b) must include additional information on how to change the resolution so that implementation will not have a significant negative impact on the authority's ability to provide services and will not impair an existing contract.

(d) If the rapid transit authority does not comply with Subsection (b) before the 11th day after the date the authority receives the appeal or request for information, the authority is considered to have determined that approval and implementation of the resolution will not have a significant negative impact on the authority's ability to provide services and will not impair any existing contracts.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.024. ELECTION. (a) If the comptroller determines under Section 334.022 or 334.023 that the implementation of the resolution will not have a significant negative fiscal impact on state revenue, and, if applicable, the rapid transit authority determines under Section 334.0235 or 334.0236 that the implementation will not have a significant negative impact on the authority's ability to provide service and will not impair any existing contracts, the governing body of the municipality or county may order an election on the question of approving and implementing the resolution.

(b) The order calling the election must:

(1) allow the voters to vote separately on each venue project;

(2) designate the venue project;

(3) designate each method of financing authorized by this chapter that the municipality or county wants to use to finance the project and the maximum rate of each method; and

(4) allow the voters to vote, in the same proposition or in separate propositions, on each method of financing authorized by this chapter that the municipality or county wants to use to finance the project and the maximum rate of each method.

(c) The ballot at the election held under this section must be printed to permit voting for or against the proposition: "Authorizing _____ (insert name of municipality or county) to _____ (insert description of venue project) and to _____ (insert "impose a new" or "authorize the use of the existing") _____ tax (insert the type of tax) at the rate of _____ (insert the maximum rate of the tax) for the purpose of financing the venue project."

(d) If more than one method of financing is to be voted on in one proposition, the ballot must be printed to permit voting for or against the proposition: "Authorizing _____ (insert name of municipality or county) to _____ (insert description of venue project) and to impose a _____ tax at the rate of _____ (insert each type of tax and the maximum rate of each tax) for the purpose of financing the venue project."

(d-1) If the proposition is authorizing the imposition of a hotel occupancy tax under Subchapter H, the ballot must include the following language: "If approved, the maximum hotel occupancy tax

rate imposed from all sources in _____ (insert name of municipality or county) would be _____ (insert the maximum combined hotel occupancy tax rate that would be imposed from all sources at any location in the municipality or county, as applicable, if the rate proposed in the ballot proposition is adopted) of the price paid for a room in a hotel."

(e) The Election Code governs an election held under this chapter.

(f) If the venue project is authorized by Section 334.001(4)(D) and the venue project does not include improvements and/or additions to all parks and/or recreation facilities of the municipality, the description of the venue project in the proposition, if for improvements or additions to an existing park or recreation facility, shall identify by name or location each park or recreation facility and, if for acquisition and/or improvement of a new park or recreation facility, the general location within the municipality of the new park, recreational system, or facility.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 784, Sec. 2, eff. June 18, 1999. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 189 (S.B. 169), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 966 (H.B. 1908), Sec. 2, eff. September 1, 2013.

Sec. 334.0241. ELECTION ON USE OF AD VALOREM TAXES. (a) The governing body of a municipality or county imposing a hotel occupancy tax under Subchapter H may order an election on the question of approving the use of revenue derived from ad valorem taxes to finance a venue project.

(b) The ballot at the election held under this section must be printed to permit voting for or against the proposition:

"Authorizing _____ (insert name of municipality or county) to use an amount not to exceed _____ (insert percentage of property tax revenue or dollar amount of revenue to be used) of the revenue derived from the _____ (insert "county" or "municipal") property tax, in addition to the hotel occupancy tax and any other applicable taxes, for the purpose of financing the _____ (describe the

venue project)."

(c) If a majority of the votes cast at the election under this section favor the use of revenue derived from ad valorem taxes to finance a venue project, the municipality or county shall annually deposit an amount not to exceed the authorized amount of ad valorem tax revenue in the venue project fund of the municipality or county and may use that amount to finance the venue project.

Added by Acts 2005, 79th Leg., Ch. 421 (S.B. 1730), Sec. 1, eff. June 17, 2005.

Sec. 334.0242. ELECTION ON USE OF TAXES TO IMPROVE OR MAINTAIN VENUE PROJECT. (a) Except as provided by Subsection (e), if one or more methods of financing have been approved at an election held under Section 334.024, the governing body of the municipality or county imposing the method may order an election on the question of approving the use of revenue derived from one or more approved methods to finance a related venue project.

(b) The ballot at the election held under this section must be printed to permit voting for or against the proposition:

"Authorizing _____ (insert name of municipality or county) to use an amount not to exceed _____ (insert percentage of tax revenue or dollar amount of revenue to be used for each type of tax) of the revenue derived from the _____ (insert each type of tax) tax, to finance the _____ (describe the related venue project and its relation to the previously approved venue project)."

(c) If a majority of the votes cast at an election held under this section approve the proposition, the municipality or county may use the revenue to finance the related venue project described in the proposition.

(d) At an election held under this section, the municipality or county may not change the rate of the tax or the method of financing previously authorized under Section 334.024.

(e) This section does not authorize the municipality or county to use revenue from a hotel occupancy tax under Subchapter H.

Added by Acts 2007, 80th Leg., R.S., Ch. 869 (H.B. 1524), Sec. 2, eff. June 15, 2007.

Sec. 334.025. FALSE AND MISLEADING CAMPAIGN MATERIAL. (a) In this section, "campaign material" means a communication supporting or opposing the authorization of a venue project that:

(1) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(2) appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication.

(b) A person may not print, broadcast, or publish, or cause to be printed, broadcast, or published, campaign material that contains false and misleading information.

(c) An individual may file a complaint with the Texas Ethics Commission in accordance with Subchapter E, Chapter 571, Government Code, alleging a violation of Subsection (b). The commission may impose a penalty in accordance with Chapter 571, Government Code, if the commission determines that the campaign materials contain false and misleading information.

(d) Notwithstanding any other law, the Texas Ethics Commission has jurisdiction to consider and investigate a complaint filed under this section and to impose a penalty.

Added by Acts 2001, 77th Leg., ch. 1044, Sec. 2, eff. Sept. 1, 2001.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 334.041. GENERAL POWERS. (a) A municipality or county may perform any act necessary to the full exercise of the municipality's or county's powers under this chapter.

(b) A municipality or county may acquire, sell, lease, convey, or otherwise dispose of property or an interest in property, including an approved venue project, under terms and conditions determined by the municipality or county. In a transaction with another public entity that is made as provided by this subsection, the public purpose found by the legislature under Section 334.044 is adequate consideration for the municipality or county and the other public entity.

(c) A municipality or county may contract with a public or private person, including a sports team, club, organization, or other entity to:

(1) plan, acquire, establish, develop, construct, or

renovate an approved venue project; or

(2) perform any other act the municipality or county is authorized to perform under this chapter, other than conducting an election under this chapter.

(d) A municipality or county may contract with or enter into an interlocal agreement with a school district, junior or community college district, or an institution of higher education as defined by Section 61.003, Education Code, for a purpose described by Subsection (c). The contract or interlocal agreement may provide for joint ownership and operation or joint use.

(e) The competitive bidding laws, including Chapter 271, do not apply to the planning, acquisition, establishment, development, construction, or renovation of an approved venue project under this chapter.

(f) A municipality or county may not use revenue derived from ad valorem taxes to construct, operate, maintain, or renovate a venue that is part of an approved venue project. This provision does not apply to:

(1) a venue authorized under Section 334.001(4)(D) or (F); or

(2) a county or municipality for which the use of revenue derived from ad valorem taxes to finance a venue project is approved at an election held under Section 334.0241.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 189, Sec. 2, eff. June 2, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 421 (S.B. 1730), Sec. 2, eff. June 17, 2005.

Sec. 334.0415. USE OF FINANCING FOR CERTAIN PROJECTS. Notwithstanding any other provision of this chapter, a municipality or county, or an entity created by or acting on behalf of or in conjunction with a municipality or county, that contracts with a professional sports team or the team's owner or representative on or before November 1, 1998, for the team to relocate and play at an arena, coliseum, or stadium in the municipality or county may not use any method of financing authorized by this chapter to finance the acquisition or construction of the arena, coliseum, or stadium if the

team is playing under an existing contract and is located in another arena, coliseum, or stadium owned by a different municipality or county in this state unless the governing body of that different municipality or county consents to the contract.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.042. VENUE PROJECT FUND. (a) A municipality or county in which an approved venue project is located shall establish by resolution a fund known as the venue project fund. The municipality or county shall establish separate accounts within the fund for the various revenue sources.

(b) The municipality or county shall deposit into the venue project fund:

(1) the proceeds of any tax imposed by the municipality or county under this chapter;

(2) all revenue from the sale of bonds or other obligations by the municipality or county under this chapter; and

(3) any other money required by law to be deposited in the fund.

(c) The municipality or county may deposit into the venue project fund:

(1) money received by the municipality or county from innovative funding concepts such as the sale or lease of luxury boxes or the sale of licenses for personal seats;

(2) any other revenue received by the municipality or county from the approved venue project, including stadium rental payments and revenue from concessions and parking;

(3) if the revenue is not otherwise dedicated, all or a portion of any revenue the municipality or county receives from bonuses, delay rentals, royalties, and any other payments the municipality or county receives as the owner of oil, gas, and other mineral interests;

(4) if the revenue is not otherwise dedicated, all or a portion of any revenues the municipality or county receives from the fees, payments, or charges imposed by:

(A) a joint operating board to which a municipality or county is a party; or

(B) a nonprofit corporation created by and acting on

behalf of a county or municipality; and

(5) any other revenue the municipality by ordinance or the county by order determines is appropriate for use in financing a venue project and related infrastructure.

(d) The municipality or county may use money in the venue project fund to:

(1) reimburse or pay the costs of planning, acquiring, establishing, developing, constructing, or renovating one or more approved venue projects in the municipality or county;

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the municipality or county or to refund bonds, notes, or other obligations; or

(3) pay the costs of operating or maintaining one or more approved venue projects.

(e) Money deposited into the venue project fund, including money deposited under Subsection (c), is the property of the municipality or county depositing the money.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1031 (H.B. 4360), Sec. 1, eff. June 19, 2009.

Sec. 334.0425. BOOKS, RECORDS, AND PAPERS. The books, records, and papers of the municipality or county relating to an approved venue project and the revenue used to finance the project are public information and subject to disclosure under Chapter 552, Government Code.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.043. BONDS AND OTHER OBLIGATIONS. (a) A municipality or county in which an approved venue project is located may issue bonds, including revenue bonds and refunding bonds, or other obligations to pay the costs of the approved venue project.

(b) The bonds or other obligations and the proceedings authorizing the bonds or other obligations shall be submitted to the attorney general for review and approval as required by Chapter 1202, Government Code.

(c) The bonds or other obligations must be payable from and secured by the revenues in the venue project fund.

(d) The bonds or other obligations may mature serially or otherwise not more than 30 years from their date of issuance.

(e) The bonds or other obligations are not a debt of and do not create a claim for payment against the revenue or property of the municipality or county other than the revenue sources pledged and an approved venue project for which the bonds are issued.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.326, eff. Sept. 1, 2001.

Sec. 334.044. PUBLIC PURPOSE OF VENUE PROJECT. (a) The legislature finds for all constitutional and statutory purposes that an approved venue project is owned, used, and held for public purposes by the municipality or county.

(b) Section 25.07(a), Tax Code, does not apply to a leasehold or other possessory interest granted by the municipality or county while the municipality or county owns the venue project.

(c) The venue project is exempt from taxation under Section 11.11, Tax Code, while the municipality or county owns the venue project.

(d) If approval and implementation of a resolution under this chapter results in the removal from a school district's property tax rolls of real property otherwise subject to ad valorem taxation, the operator of the approved venue project located on that property shall pay to the school district on January 1 of each year in which the project is in operation and in which the real property is exempt from ad valorem taxation an amount equal to the ad valorem taxes that would otherwise have been levied for the preceding tax year on that real property by the school district, without including the value of any improvements. This subsection does not apply if the operator of the project is a political subdivision of this state.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.045. PUBLIC SQUARE OR MUNICIPAL PARK. Section 253.001(b) does not apply to the sale or lease of a public square or

municipal park for the acquisition, establishment, development, construction, or renovation of an approved venue project.

Added by Acts 2005, 79th Leg., Ch. 1247 (H.B. 1734), Sec. 3, eff. June 18, 2005.

SUBCHAPTER D. SALES AND USE TAX

Sec. 334.081. SALES AND USE TAX. (a) A municipality by ordinance or a county by order may impose a sales and use tax under this subchapter.

(b) A municipality by ordinance or a county by order may repeal or decrease the rate of a tax imposed under this subchapter.

(c) A municipality or county may impose a tax under this subchapter only if:

(1) an approved venue project is or is planned to be located in the municipality or county; and

(2) the tax is approved at an election held under Section 334.024.

(d) Subsection (c)(1) does not apply to a venue project for a venue described by Section 334.001(4)(F).

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 189, Sec. 4, eff. June 2, 2003.

Sec. 334.082. TAX CODE APPLICABLE. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, collection, and remittance of a municipal tax authorized under this subchapter except as inconsistent with this chapter.

(b) Chapter 323, Tax Code, governs the imposition, computation, administration, collection, and remittance of a county tax authorized under this subchapter except as inconsistent with this chapter.

(c) Sections 321.101(b), 321.506, and 323.101(b), Tax Code, do not apply to the tax authorized by this subchapter.

(d) The tax imposed by this subchapter is in addition to a tax imposed under other law, including Chapters 321 and 323, Tax Code, and is included in computing a combined sales and use tax rate for purposes of the limitation on the maximum combined sales and use tax rate of political subdivisions.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 1, eff. September 1, 2015.

Sec. 334.083. TAX RATE. (a) The rate of a tax adopted by a county under this subchapter must be one-eighth, one-fourth, three-eighths, or one-half of one percent. The rate of the tax adopted by a municipality may be any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f), Tax Code.

(b) The ballot proposition at the election held to adopt the tax must specify the rate of the tax to be adopted.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 2, eff. September 1, 2015.

Sec. 334.084. RATE INCREASE. (a) A municipality that has adopted a sales and use tax under this subchapter at any rate, and a county that has adopted a sales and use tax under this subchapter at a rate of less than one-half of one percent, may by ordinance or order increase the rate of the tax if the increase is approved by a majority of the registered voters of that municipality or county voting at an election called and held for that purpose.

(b) The county tax may be increased under Subsection (a) in one or more increments of one-eighth of one percent to a maximum of one-half of one percent. The municipal tax may be increased under Subsection (a) in one or more increments of one-eighth of one percent to any rate that the municipality determines is appropriate and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f), Tax Code.

(c) The ballot for an election to increase the tax shall be printed to permit voting for or against the proposition: "The adoption of a sales and use tax for the purpose of financing _____ (insert description of venue project) at the rate of _____ percent

(insert appropriate rate)."

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 3, eff. September 1, 2015.

Sec. 334.085. IMPOSITION IN MUNICIPALITY OR COUNTY WITH OTHER TAXING AUTHORITY. (a) In this section, "taxing authority" means:

(1) a rapid transit authority created under Chapter 451, Transportation Code;

(2) a regional transportation authority created under Chapter 452, Transportation Code;

(3) a crime control district created under the Crime Control and Prevention District Act (Article 2370c-4, Vernon's Texas Civil Statutes); or

(4) a corporation created under Chapter 504 or 505.

(b) Except as provided by Section 334.0855, if a municipality or county is included within the boundaries of another taxing authority and the adoption or increase of the tax under this subchapter would result in a combined tax rate of more than two percent in any location in the municipality or county, the election to approve or increase the tax under this chapter is to be treated for all purposes as an election to reduce the tax rate of the other taxing authority (except a rapid transit authority created under Chapter 451, Transportation Code) to the highest rate that will not result in a combined tax rate of more than two percent in any location in the municipality or county. If the municipality or county is located within the boundaries of only one taxing authority, and the adoption or increase of the tax under this subchapter will result in a decrease of the tax rate of the taxing authority, the ballot at an election to impose or increase the tax must clearly state that the adoption or increase of the tax will result in a reduction of the tax rate of the taxing authority. If the municipality or county is included within the boundaries of more than one taxing authority, the election to impose or increase the tax under this subchapter must allow the voters to choose which taxing authority's tax will be reduced.

(b-1) If the voters choose reduction of the tax collected by a

rapid transit authority created under Chapter 451, Transportation Code, and imposition of the tax authorized under this section would result in a reduction of the rapid transit authority's tax rate to the highest rate that will not result in a combined tax rate of more than two percent in any location in the municipality or county, an election must be held pursuant to Subchapter M, Chapter 451, Transportation Code, as applicable for the type of authority involved, on the question of withdrawing the affected municipalities from the authority prior to imposition of the tax authorized in this section. If withdrawal is not authorized, the tax may not be imposed unless authorized pursuant to subsequent election(s). Upon withdrawal of each affected municipality from the authority (if withdrawal is authorized), the obligation to provide service (including service to persons with disabilities) shall be discontinued for that municipality except as required under applicable federal law. In all other respects, the provisions of Subchapter M, Chapter 451, Transportation Code, governing withdrawal procedures and obligations of municipalities upon withdrawal shall apply.

(c) The rate of the tax imposed by the other taxing authority is increased without further action of the board of the authority or the voters of the authority, municipality, or county on the date on which the tax imposed under this subchapter is decreased or expires, but only to the extent that any tax imposed by the authority was reduced under this section when the tax imposed by the municipality or county was adopted or increased.

(d) This section does not permit a taxing authority to impose taxes at differential tax rates within the territory of the authority.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.20, eff. April 1, 2009.

Sec. 334.0855. IMPOSITION IN CERTAIN MUNICIPALITIES AND COUNTIES. (a) This section applies only to a:

(1) municipality that is included in a regional transportation authority created under Chapter 452, Transportation Code; and

(2) county that is included within the boundaries of a regional transportation authority created under Chapter 452, Transportation Code.

(b) If the adoption or increase of the tax under this subchapter would otherwise result under Section 334.085 in the reduction of the tax rate of the transportation authority, the election to approve or increase the tax under this subchapter is to be treated for all purposes as an election to withdraw from the authority in accordance with and subject to Subchapter Q, Chapter 452, Transportation Code.

(c) The ballot language at an election to which this section applies must clearly state that the adoption or increase of the tax under this subchapter will result in the withdrawal of the municipality or county from the transportation authority.

(d) A municipality or county subject to this section that votes to adopt or increase the tax under this subchapter may not impose that tax before the date on which the municipality's or county's financial obligations to the authority are satisfied in accordance with Subchapter Q, Chapter 452, Transportation Code.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.086. IMPOSITION OF TAX. (a) If the municipality or county adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items in the municipality or county at the rate approved at the election.

(b) There is also imposed an excise tax on the use, storage, or other consumption in the municipality or county of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective in the municipality or county. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sale price of the tangible personal property.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.087. EFFECTIVE DATE OF TAX. The adoption of the tax or the change of the tax rate takes effect on the first day of the first calendar quarter occurring after the expiration of the first

complete quarter occurring after the date on which the comptroller receives a notice of the results of the election adopting or increasing the tax or of the ordinance or order decreasing the tax.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.088. DEPOSIT OF TAX REVENUES. Revenue from the tax imposed under this subchapter shall be deposited in the venue project fund of the municipality or county imposing the tax.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.089. ABOLITION OF TAX. (a) A sales and use tax imposed under this subchapter may not be collected after the last day of the first calendar quarter occurring after notification to the comptroller by the municipality or county that the municipality or county has abolished the tax or that all bonds or other obligations of the municipality or county that are payable in whole or in part from money in the venue project fund, including any refunding bonds or other obligations, have been paid in full or the full amount of money, exclusive of guaranteed interest, necessary to pay in full the bonds and other obligations has been set aside in a trust account dedicated to the payment of the bonds and other obligations.

(b) The municipality or county shall notify the comptroller of the expiration of the tax not later than the 60th day before the expiration date.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER E. SHORT-TERM MOTOR VEHICLE RENTAL TAX

Sec. 334.101. DEFINITIONS. (a) In this subchapter:

(1) "Motor vehicle" means a self-propelled vehicle designed principally to transport persons or property on a public roadway and includes a passenger car, van, station wagon, sports utility vehicle, and truck. The term does not include a:

(A) trailer, semitrailer, house trailer, truck having a manufacturer's rating of more than one-half ton, or road-building machine;

(B) device moved only by human power;

(C) device used exclusively on stationary rails or tracks;

(D) farm machine; or

(E) mobile office.

(2) "Rental" means an agreement by the owner of a motor vehicle to authorize for not longer than 30 days the exclusive use of that vehicle to another for consideration.

(3) "Place of business of the owner" means an established outlet, office, or location operated by the owner of a motor vehicle or the owner's agent or employee for the purpose of renting motor vehicles and includes any location at which three or more rentals are made during a year.

(b) Except as provided by Subsection (a), words used in this subchapter and defined by Chapter 152, Tax Code, have the meanings assigned by Chapter 152, Tax Code.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.1015. APPLICATION. (a) Except as provided by Subsection (b), this subchapter does not apply to the financing of a venue project that is an area or facility that is part of a municipal parks and recreation system.

(b) A municipality located on the international border may finance a venue project described by Section 334.001(4)(D) with the revenue from a tax imposed under this subchapter.

Added by Acts 1999, 76th Leg., ch. 784, Sec. 3, eff. June 18, 1999. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 2, eff. June 15, 2017.

Sec. 334.102. TAX AUTHORIZED. (a) A municipality by ordinance or a county by order may impose a tax on the rental in the municipality or county of a motor vehicle.

(b) A municipality by ordinance or a county by order may repeal or decrease the rate of a tax imposed under Subsection (a).

(c) A municipality or county may impose a tax under this subchapter only if:

(1) an approved venue project is or is planned to be located in the municipality or county; and

(2) the tax is approved at an election held under Section 334.024.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.103. SHORT-TERM RENTAL TAX. (a) Except as provided by Subsection (c), the tax authorized by this subchapter is imposed at a rate in increments of one-eighth of one percent, not to exceed five percent, on the gross rental receipts from the rental in the municipality or county of a motor vehicle.

(b) The ballot proposition at the election held to adopt the tax must specify the maximum rate of the tax to be adopted.

(c) A county with a population of more than 2.5 million that is adjacent to a county with a population of more than 2.1 million may impose the tax authorized by this subchapter at a rate not to exceed six percent on the gross rental receipts from the rental in the county of a motor vehicle.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 164, Sec. 1, eff. May 27, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 169, eff. September 1, 2023.

Sec. 334.104. RATE INCREASE. (a) Except as provided by Section 334.1041, a municipality or county that has adopted a tax under this subchapter at a rate of less than five percent may by ordinance or order increase the rate of the tax to a maximum of five percent if the increase is approved by a majority of the registered voters of that municipality or county voting at an election called and held for that purpose.

(b) The ballot for an election to increase the rate of the tax shall be printed to permit voting for or against the proposition: "The increase of the motor vehicle rental tax for the purpose of financing _____ (insert description of venue project) to a maximum rate of _____ percent (insert new maximum rate not to exceed five percent)."

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 164, Sec. 2, eff. May 27, 2003.

Sec. 334.1041. RATE INCREASE IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a county with a population of more than 2.5 million that is adjacent to a county with a population of more than 2.1 million.

(b) A county that has adopted a tax under this subchapter at a rate of less than six percent may by order increase the rate of the tax to a maximum of six percent if the increase is approved by a majority of the registered voters of the county voting at an election called and held for that purpose.

(c) The ballot for the election to increase the rate of the tax shall be printed to permit voting for or against the proposition: "The increase of the motor vehicle rental tax for the purpose of financing _____ (insert description of venue project) to a maximum rate of _____ percent (insert new maximum rate not to exceed six percent)."

Added by Acts 2003, 78th Leg., ch. 164, Sec. 3, eff. May 27, 2003. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 170, eff. September 1, 2023.

Sec. 334.105. COMPUTATION OF TAX. (a) The owner of a motor vehicle subject to the tax imposed under this subchapter shall collect the tax for the benefit of the municipality or county.

(b) The owner shall add the short-term motor vehicle rental tax imposed by the municipality or county under this subchapter, if applicable, and the gross rental receipts tax imposed by Chapter 152, Tax Code, to the rental charge, and the sum of the taxes is a part of the rental charge, is a debt owed to the motor vehicle owner by the person renting the vehicle, and is recoverable at law in the same manner as the rental charge.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.106. CONSUMMATION OF RENTAL. A rental of a motor

vehicle occurs in the municipality or county in which transfer of possession of the motor vehicle occurs.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.107. EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter E, Chapter 152, Tax Code, apply to the tax authorized by this subchapter.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.108. NOTICE OF TAX. Each bill or other receipt for a rental subject to the tax imposed under this subchapter must contain a statement in a conspicuous location stating: "_____ (insert name of taxing municipality or county) requires that an additional tax of ____ percent (insert rate of tax) be imposed on each motor vehicle rental for the purpose of financing _____ (describe approved venue project)."

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.109. GROSS RECEIPTS PRESUMED SUBJECT TO TAX. All gross receipts of an owner of a motor vehicle from the rental of the motor vehicle are presumed to be subject to the tax imposed by this subchapter, except for gross receipts for which the owner has accepted in good faith a properly completed exemption certificate.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.110. RECORDS. (a) The owner of a motor vehicle used for rental purposes shall keep for four years records and supporting documents containing the following information on the amount of:

(1) gross rental receipts received from the rental of the motor vehicle; and

(2) the tax imposed under this subchapter and paid to the municipality or county on each motor vehicle used for rental purposes by the owner.

(b) Mileage records are not required.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.111. FAILURE TO KEEP RECORDS. (a) An owner of a motor vehicle commits an offense if the owner fails to make and retain complete records for the four-year period required by Section 334.110.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $25 or more than $500.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.112. EFFECTIVE DATE AND ENDING DATE OF TAX. (a) A tax imposed under this subchapter or a change in the tax rate takes effect on the date prescribed by the ordinance or order imposing the tax or changing the rate.

(b) A municipality or county may impose a tax under this subchapter only if the municipality or county issues bonds or other obligations under Section 334.043 before the first anniversary of the date the tax is imposed. The municipality or county may not impose the tax after those bonds or other obligations are paid in full.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.113. TAX COLLECTION; PENALTY. (a) The owner of a motor vehicle required to collect the tax imposed under this subchapter shall report and send the taxes collected to the municipality or county as provided by the ordinance or order imposing the tax.

(b) A municipality by ordinance or a county by order may prescribe penalties, including interest charges, for failure to keep records required by the municipality or county, to report when required, or to pay the tax when due.

(c) The attorney acting for the municipality or county may bring suit against a person who fails to collect a tax under this subchapter and to pay it over to the municipality or county as required.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.1135. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) Subject to Subsection (b), a municipality or county shall allow a person who is required to collect and remit the tax imposed under this subchapter one percent of the amount collected and required to be remitted as reimbursement to the person for the costs of collecting the tax.

(b) A person required to collect and remit the tax imposed under this subchapter is not entitled to reimbursement under Subsection (a) unless the municipality or county receives the amount required to be collected not later than the 15th day after the end of the collection period. If the 15th day is on a weekend or holiday, the municipality or county must receive the amount required to be collected not later than the first working day after the 15th day. If the person remits the amount required to be collected by mail, the date postmarked by the United States Postal Service is considered to be the date of receipt by the municipality or county.

Added by Acts 2001, 77th Leg., ch. 1044, Sec. 3, eff. Sept. 1, 2001.

Sec. 334.114. COLLECTION PROCEDURES ON PURCHASE OF MOTOR VEHICLE RENTAL BUSINESS. (a) If the owner of a motor vehicle rental business that makes rentals subject to the tax imposed by this subchapter sells the business, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount of tax due until the seller provides a receipt by a person designated by the municipality or county to provide the receipt showing that the amount has been paid or a certificate showing that no tax is due.

(b) The purchaser of a motor vehicle rental business who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a motor vehicle rental business may request that the person designated by the municipality or county to provide a receipt under Subsection (a) issue a certificate stating that no tax is due or issue a statement of the amount required to be

paid before a certificate may be issued. The person designated by the municipality or county shall issue the certificate or statement not later than the 60th day after the date the person receives the request.

(d) If the person designated by the municipality or county to provide a receipt under Subsection (a) fails to issue the certificate or statement within the period provided by Subsection (c), the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.115. DEPOSIT OF TAX REVENUE. Revenue from the tax imposed under this subchapter shall be deposited in the venue project fund of the municipality or county imposing the tax.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER F. ADMISSIONS TAX

Sec. 334.151. TAX AUTHORIZED. (a) A municipality by ordinance or a county by order may impose a tax on each ticket sold as admission to an event held at an approved venue project in the municipality or county for which the municipality or county has issued bonds to plan, acquire, establish, develop, construct, or renovate the approved venue project.

(b) The municipality or county may not impose the tax under this subchapter for admission to an event at a venue that is not an approved venue project or for which the municipality or county has not issued bonds to plan, acquire, establish, develop, construct, or renovate the approved venue project.

(c) A municipality or county may impose a tax under this subchapter only if:

(1) an approved venue project is or will be located in the municipality or county; and

(2) the tax is approved at an election held under Section 334.024.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.152. TAX RATE. (a) The tax authorized by this subchapter is imposed at the tax rate on each ticket sold as admission to an event held at an approved venue.

(b) The amount of the tax may be imposed at any uniform percentage not to exceed 10 percent of the price of the ticket sold as admission to an event held at an approved venue.

(c) The ballot proposition at the election held to adopt the tax must specify the maximum rate of the tax to be adopted.

(d) The municipality by ordinance or the county by order may repeal or decrease the rate of the tax imposed under this subchapter.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.153. RATE INCREASE. (a) A municipality or county that has adopted a tax under this subchapter at the rate of less than the maximum percentage allowed by this subchapter may by ordinance or order increase the rate of the tax to the maximum percentage allowed by this subchapter if the increase is approved by a majority of the registered voters of that municipality or county voting at an election called and held for that purpose.

(b) The ballot for an election to increase the rate of the tax shall be printed to permit voting for or against the proposition: "The increase of the admissions tax for the purpose of financing _____ (insert description of venue project) to a maximum rate of _____ percent of the price of each ticket sold as admission to an event held at an approved venue (insert new maximum rate not to exceed 10 percent of the price of each ticket sold as admission to an event held at an approved venue)."

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.154. COLLECTION. (a) The municipality by ordinance or the county by order may require the owner or lessee of an approved venue project in the municipality or county to collect the tax for the benefit of the municipality or county.

(b) An owner or lessee required to collect the tax under this section shall add the tax to the admissions price, and the tax is a part of the admissions price, a debt owed to the owner or lessee of the approved venue project by the person admitted, and recoverable at

law in the same manner as the admissions charge.

(c) The tax imposed by this subchapter is not an occupation tax imposed on the owner or lessee of the approved venue project.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.155. EFFECTIVE DATE AND ENDING DATE OF TAX. (a) A tax imposed under this subchapter or a change in a tax rate takes effect on the date prescribed by the ordinance or order imposing the tax or changing the rate.

(b) A municipality or county may impose a tax under this subchapter only if the municipality or county issues bonds or other obligations under Section 334.043. The municipality or county may impose the tax only while those bonds or other obligations are outstanding and unpaid.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.156. COLLECTION OF TAX. (a) A person required to collect a tax imposed under this subchapter shall report and send the taxes to the municipality or county as provided by the municipality or county imposing the tax.

(b) A municipality by ordinance or a county by order may prescribe penalties, including interest charges, for failure to keep records required by the municipality or county, to report when required, or to pay the tax when due. The attorney acting for the municipality or county may bring suit against a person who fails to collect a tax under this subchapter and to pay it over to the municipality or county as required.

(c) A municipality by ordinance or a county by order may permit a person who is required to collect a tax under this subchapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. The municipality or county may provide that the person may retain the amount only if the person pays the tax and files reports as required by the municipality or county.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.157. DEPOSIT OF TAX REVENUE. Revenue from the tax imposed under this subchapter shall be deposited in the venue project fund of the municipality or county imposing the tax.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER G. PARKING TAX

Sec. 334.201. EVENT PARKING TAX. (a) A municipality by ordinance or a county by order may impose a tax on each motor vehicle parking in a parking facility of an approved venue project.

(b) The municipality or county may impose the tax during a period beginning not more than three hours before and ending not more than three hours after the time an event in an approved venue project is scheduled to begin. The municipality or county may not impose the tax under this subchapter during any other time.

(b-1) Notwithstanding Subsection (b), if the approved venue project consists of three or more separate but adjacent venue facilities, the municipality or county may impose the tax during any hours.

(c) A municipality or county may impose a tax under this subchapter only if the tax is approved at an election held under Section 334.024.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1031 (H.B. 4360), Sec. 2, eff. June 19, 2009.

Sec. 334.202. TAX RATE. (a) The municipality by ordinance or the county by order may provide that the tax is imposed at a flat amount on each parked motor vehicle or is imposed as a percentage of the amount charged for event parking by the owner or lessee of the parking facility.

(b) Regardless of the method of imposition, the amount of the tax may not exceed $3 for each motor vehicle, except as provided by Subsection (b-1).

(b-1) A municipality with a population of more than 700,000 within a county with a population of more than 2.1 million adjacent to a county with a population of more than 2.5 million may impose the

tax authorized by this subchapter at a rate not to exceed $5 for each motor vehicle.

(c) The ballot proposition at the election held to adopt the tax must specify the maximum rate of the tax to be adopted.

(d) The municipality by ordinance or the county by order may repeal or decrease the rate of the tax imposed under this section.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1031 (H.B. 4360), Sec. 3, eff. June 19, 2009.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 171, eff. September 1, 2023.

Sec. 334.203. RATE INCREASE. (a) Except as provided by Section 334.2031, a municipality or county that has adopted a tax under this subchapter at a rate of less than $3 a vehicle may by ordinance or order increase the rate of the tax to a maximum of $3 a vehicle if the increase is approved by a majority of the registered voters of that municipality or county voting at an election called and held for that purpose.

(b) The ballot for an election to increase the rate of the tax shall be printed to permit voting for or against the proposition: "The increase of the parking tax for the purpose of financing _____ (insert description of venue project) to a maximum rate of _____ (insert new maximum rate not to exceed $3)."

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1031 (H.B. 4360), Sec. 4, eff. June 19, 2009.

Sec. 334.2031. RATE INCREASE IN CERTAIN MUNICIPALITIES IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a municipality with a population of more than 700,000 within a county with a population of more than 2.1 million that is adjacent to a county with a population of more than 2.5 million.

(b) A municipality that has adopted a tax under this subchapter at a rate of less than $5 a vehicle may by ordinance increase the

rate of the tax to a maximum of $5 a vehicle if the increase is approved by a majority of the registered voters of the municipality voting at an election called and held for that purpose.

(c) The ballot for the election to increase the rate of the tax shall be printed to permit voting for or against the proposition: "The increase of the parking tax for the purpose of financing _____ (insert description of venue project) to a maximum rate of _____ (insert new maximum rate not to exceed $5)."

Added by Acts 2009, 81st Leg., R.S., Ch. 1031 (H.B. 4360), Sec. 5, eff. June 19, 2009.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 172, eff. September 1, 2023.

Sec. 334.204. COLLECTION. (a) The municipality by ordinance or the county by order may require the owner or lessee of a parking facility to collect the tax for the benefit of the municipality or county.

(b) An owner or lessee required to collect the tax under this section shall add the tax to the parking charge, and the tax is a part of the parking charge, a debt owed to the parking facility owner or lessee by the person parking, and recoverable at law in the same manner as the parking charge.

(c) The tax imposed by this subchapter is not an occupation tax imposed on the owner or lessee of the parking facility.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.205. EFFECTIVE DATE AND ENDING DATE OF TAX. (a) A tax imposed under this subchapter or a change in the tax rate takes effect on the date prescribed by the ordinance or order imposing the tax or changing the rate.

(b) A municipality or county may impose a tax under this subchapter only if the municipality or county issues bonds or other obligations under Section 334.043. The municipality or county may impose the tax only while those bonds or other obligations are outstanding and unpaid.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.206. COLLECTION OF TAX. (a) A person required to collect a tax imposed under this subchapter shall report and send the taxes to the municipality or county as provided by the municipality or county imposing the tax.

(b) A municipality by ordinance or a county by order may prescribe penalties, including interest charges, for failure to keep records required by the municipality or county, to report when required, or to pay the tax when due. The attorney acting for the municipality or county may bring suit against a person who fails to collect a tax under this subchapter and to pay it over to the municipality or county as required.

(c) A municipality by ordinance or a county by order may permit a person who is required to collect a tax under this subchapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. The municipality or county may provide that the person may retain the amount only if the person pays the tax and files reports as required by the municipality or county.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.207. DEPOSIT OF TAX REVENUE. Revenue from the tax imposed under this subchapter shall be deposited in the venue project fund of the municipality or county imposing the tax.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER H. HOTEL OCCUPANCY TAXES

Sec. 334.251. DEFINITION. In this subchapter, "hotel" has the meaning assigned by Section 156.001, Tax Code.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.2515. APPLICATION. Except as provided by Sections 334.2516 and 334.2518, this subchapter does not apply to the

financing of a venue project that is:

(1) an area described by Section 334.001(4)(C);

(2) an area or facility that is part of a municipal parks and recreation system as described by Section 334.001(4)(D);

(3) a project described by Section 334.001(4)(E), except for a project described by Section 334.001(4)(A); or

(4) a facility described by Section 334.001(4)(G).

Added by Acts 1999, 76th Leg., ch. 784, Sec. 4, eff. June 18, 1999. Amended by Acts 2001, 77th Leg., ch. 660, Sec. 1, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 1044, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 12.006, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 3, eff. June 15, 2017.

Acts 2021, 87th Leg., R.S., Ch. 977 (S.B. 2181), Sec. 1, eff. September 1, 2021.

Sec. 334.2516. USE OF REVENUE BY CERTAIN MUNICIPALITIES FOR CERTAIN PURPOSES. (a) This section applies only to a municipality that:

(1) is located in three counties;

(2) has a population of less than 130,000 as shown by the 2000 federal decennial census; and

(3) acquires by purchase or lease with a term of not less than 20 years an interest in real property that by the terms of the acquisition is required to be maintained as park property.

(b) A municipality may use revenue under this subchapter to acquire, construct, improve, and equip a venue project that is a convention center facility or related infrastructure to be constructed on real property described by Subsection (a)(3). In addition, the municipality may pledge the revenue to the payment of bonds or other obligations the municipality issues to finance the convention center facility infrastructure.

Added by Acts 2001, 77th Leg., ch. 660, Sec. 2 and Acts 2001, 77th Leg., ch. 1044, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 264 (H.B. 2032), Sec. 2, eff. May 30, 2009.

Sec. 334.2517. USE OF REVENUE FOR CERTAIN PURPOSES. This subchapter does not apply to the financing of a venue project described by Section 334.001(4)(F).

Added by Acts 2003, 78th Leg., ch. 189, Sec. 5, eff. June 2, 2003.

Sec. 334.2518. USE OF REVENUE BY CERTAIN MUNICIPALITIES FOR CERTAIN PARK FACILITIES. (a) This section applies only to a municipality that has a population of more than 1.3 million but less than 1.4 million.

(b) Subject to Subsection (c), a municipality to which this section applies may acquire, construct, and improve a venue project that is an amphitheater, arena, exhibit hall, music hall, or stadium located within a municipally owned park that is at least 100 acres in size and all or part of which is designated as a national historic landmark district, if the applicable type of facility is specifically listed in the ballot proposition for a venue project for the expansion of an existing convention center facility that primarily hosts conventions and has at least one million square feet of meeting space.

(c) A municipality may not spend more than 20 percent of the revenue from the convention center facility expansion venue project described by Subsection (b) for costs related to an amphitheater, arena, exhibit hall, music hall, or stadium located within a municipally owned park.

Added by Acts 2021, 87th Leg., R.S., Ch. 977 (S.B. 2181), Sec. 2, eff. September 1, 2021.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 173, eff. September 1, 2023.

Sec. 334.252. IMPOSITION OF TAX. (a) A municipality by ordinance or a county by order may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs $2

or more each day, and is ordinarily used for sleeping.

(b) A municipality or county may impose a tax under this subchapter only if:

(1) an approved venue project is or is planned to be located in the municipality or county; and

(2) the tax is approved at an election held under Section 334.024.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.253. TAX CODE APPLICABLE. (a) Sections 351.002(c), 351.004, 351.0041, 351.005, and 351.006, Tax Code, govern the imposition, computation, administration, collection, and remittance of a municipal tax authorized under this subchapter except as inconsistent with this subchapter.

(b) Sections 352.002(c), 352.004, 352.0041, 352.005, and 352.007, Tax Code, govern the imposition, computation, administration, collection, and remittance of a county tax authorized under this subchapter except as inconsistent with this subchapter.

(c) The tax imposed by this subchapter is in addition to a tax imposed under Chapter 351 or 352, Tax Code.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.254. TAX RATE. (a) Except as provided by Subsections (c) and (d), the tax authorized by this subchapter may be imposed by a municipality or county at any rate not to exceed two percent of the price paid for a room in a hotel.

(b) The ballot proposition at the election held to adopt the tax must specify:

(1) the maximum rate of the tax to be adopted; and

(2) the maximum combined hotel occupancy tax rate that would be imposed from all sources at any location in the municipality or county, as applicable, if the rate proposed in the ballot proposition is adopted.

(c) Except as provided by Subsection (d), a county with a population of more than 2.5 million that is adjacent to a county with a population of more than 2.1 million may impose the tax authorized by this subchapter at any rate not to exceed three percent of the

price paid for a room in a hotel.

(d) A municipality or county may not propose a hotel occupancy tax rate that would cause the combined hotel occupancy tax rate imposed from all sources at any location in the municipality or county, as applicable, to exceed 17 percent of the price paid for a room in a hotel. The following are not included in calculating the combined tax rate under this subsection:

(1) an assessment for an improvement project described by Section 372.0035;

(2) an assessment authorized by Chapter 375; or

(3) a fee collected by a hotel to recover the cost of an assessment described by Subdivision (1) or (2).

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 164, Sec. 4, eff. May 27, 2003. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 966 (H.B. 1908), Sec. 3, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 174, eff. September 1, 2023.

Sec. 334.255. RATE INCREASE. (a) A municipality or county that has adopted a tax under this subchapter at a rate of less than two percent may by ordinance or order increase the rate of the tax to the maximum applicable rate if the increase is approved by a majority of the registered voters of that municipality or county voting at an election called and held for that purpose.

(b) The ballot for an election to increase the rate of the tax shall be printed to permit voting for or against the proposition: "The increase of the hotel occupancy tax for the purpose of financing _____ (insert description of venue project) to a maximum rate of _____ percent (insert new maximum applicable rate). If approved, the maximum hotel occupancy tax rate imposed from all sources in _____ (insert name of municipality or county) would be _____ (insert the maximum combined hotel occupancy tax rate that would be imposed from all sources at any location in the municipality or county, as applicable, if the rate proposed in the ballot proposition is adopted) of the price paid for a room in a hotel."

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 966 (H.B. 1908), Sec. 4, eff. September 1, 2013.

Sec. 334.256. NOTICE OF TAX. (a) Each bill or other receipt for a hotel charge subject to the tax imposed under this subchapter must contain a statement in a conspicuous location stating the applicable hotel occupancy tax rate collected by the hotel from the customer for the State of Texas (insert state rate of tax) and the tax rate and identity of each other taxing authority that has imposed a hotel occupancy tax for the room night (insert rate of tax).

(b) If a hotel charge is subject to any additional hotel occupancy taxes, the statement required by Subsection (a) must be modified to state each additional entity that imposes a hotel occupancy tax and the rate of that tax.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1044, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 89, eff. Oct. 1, 2003.

Sec. 334.257. EFFECTIVE DATE AND ENDING DATE OF TAX. (a) A tax imposed under this subchapter or a change in the tax rate takes effect on the date prescribed by the ordinance or order imposing the tax or changing the rate.

(b) A municipality or county may impose a tax under this subchapter only if the municipality or county issues bonds or other obligations under Section 334.043 before the first anniversary of the date the tax is imposed. The municipality or county may impose the tax only while those bonds or other obligations are outstanding and unpaid.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.258. DEPOSIT OF TAX REVENUE. Revenue from the tax imposed under this subchapter shall be deposited in the venue project fund of the municipality or county imposing the tax.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER I. FACILITY USE TAX

Sec. 334.301. DEFINITION. In this subchapter, "major league team" means a team that is a member of the National Football League, National Basketball Association, or National Hockey League or a major league baseball team or any other professional team.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.302. TAX AUTHORIZED. (a) A municipality by ordinance or a county by order may impose a facility use tax on each member of a major league team that plays a professional sports game in an approved venue project in the municipality or county for which the municipality or county has issued bonds to plan, acquire, establish, develop, construct, or renovate the approved venue project.

(b) The municipality or county may not impose the facility use tax under this subchapter for a professional sports game at a venue that is not an approved venue project or for which the municipality or county has not issued bonds to plan, acquire, establish, develop, construct, or renovate the approved venue project.

(c) A municipality or county may impose a tax under this subchapter only if:

(1) an approved venue project is or will be located in the municipality or county; and

(2) the tax is approved at an election held under Section 334.024.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.303. TAX RATE. (a) The tax authorized by this subchapter is imposed at the tax rate on each member of the professional sports team for each professional game the member plays at the approved venue project.

(b) The amount of the tax may be imposed at any uniform monetary amount not to exceed $5,000 a game.

(c) The ballot proposition at the election held to adopt the tax must specify the maximum rate of the tax to be adopted.

(d) The municipality by ordinance or the county by order may

repeal or decrease the rate of the tax imposed under this subchapter.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.304. RATE INCREASE. (a) A municipality or county that has adopted a tax under this subchapter at the rate of less than $5,000 a game may by ordinance or order increase the rate of the tax to a maximum of $5,000 a game if the increase is approved by a majority of the registered voters of that municipality or county voting at an election called and held for that purpose.

(b) The ballot for an election to increase the rate of the tax shall be printed to permit voting for or against the proposition: "The increase of the facility use tax for the purpose of financing _____ (insert description of venue project) to a maximum rate of _____ a game (insert new maximum rate not to exceed $5,000)."

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.305. COLLECTION. (a) The municipality by ordinance or the county by order may require the owner or lessee of an approved venue project in the municipality or county to collect the tax for the benefit of the municipality or county.

(b) The tax imposed by this subchapter is a debt owed to the owner or lessee of the approved venue project by the team member and recoverable at law.

(c) The tax imposed by this subchapter is not an occupation tax imposed on the owner or lessee of the approved venue project or on the professional sports team member.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.306. EFFECTIVE DATE AND ENDING DATE OF TAX. (a) A tax imposed under this subchapter or a change in a tax rate takes effect on the date prescribed by the ordinance or order imposing the tax or changing the rate.

(b) A municipality or county may impose a tax under this subchapter only if the municipality or county issues bonds or other obligations under Section 334.043. The municipality or county may

impose the tax only while those bonds or other obligations are outstanding and unpaid.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.307. COLLECTION OF TAX. (a) A person required to collect a tax imposed under this subchapter shall report and send the taxes to the municipality or county as provided by the municipality or county imposing the tax.

(b) A municipality by ordinance or a county by order may prescribe penalties, including interest charges, for failure to keep records required by the municipality or county, to report when required, or to pay the tax when due. The attorney acting for the municipality or county may bring suit against a person who fails to collect a tax under this subchapter and to pay it over to the municipality or county as required.

(c) A municipality by ordinance or a county by order may permit a person who is required to collect a tax under this subchapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. The municipality or county may provide that the person may retain the amount only if the person pays the tax and files reports as required by the municipality or county.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.308. DEPOSIT OF TAX REVENUE. Revenue from the tax imposed under this subchapter shall be deposited in the venue project fund of the municipality or county imposing the tax.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER J. ATHLETIC EVENTS IN CERTAIN MUNICIPALITIES

Sec. 334.351. DEFINITION. In this subchapter, "athletic event" means a postseason intercollegiate athletic football bowl game that is held annually.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.352. APPLICATION OF SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 500,000 that is located in a county that borders the United Mexican States.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.353. SHORT-TERM MOTOR VEHICLE RENTAL TAX. (a) Notwithstanding any other provision of this chapter, a municipality to which this subchapter applies may impose by ordinance a tax on the rental in the municipality of a motor vehicle.

(b) The municipality may impose the tax only if the tax is approved at an election called and held for that purpose.

(c) Except as otherwise provided by this subchapter, Subchapter E applies to the tax imposed under this subchapter.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 334.354. USE OF REVENUE. Notwithstanding any other provision of this chapter, the municipality may use revenue from the tax to:

(1) pay the costs of collecting the tax;

(2) operate one or more athletic events in the municipality; and

(3) pay costs associated with an athletic event in the municipality, including paying the costs of planning, acquiring, establishing, developing, advertising, promoting, conducting, sponsoring, or otherwise supporting the event.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER K. LIVESTOCK FACILITY USE TAX

Sec. 334.401. DEFINITIONS. In this subchapter:

(1) "Designated facility" means an approved venue project the principal use of which is for rodeos, livestock shows, equestrian events, agricultural expositions, county fairs, or similar events.

(2) "Event" means a rodeo or an agricultural, equestrian or

livestock show, fair, competition, exhibition, or sale held on one or more consecutive days under the auspices of one or more presenting or sponsoring organizations.

(3) "Stall or pen" means an enclosure or designated space and tie point for the purpose of housing or holding livestock.

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

Sec. 334.402. APPLICABILITY. This subchapter applies only to:

(1) a county in which the majority of the population of two or more municipalities with a population of 300,000 or more are located; or

(2) a municipality for which the majority of the population is located in a county described by Subdivision (1).

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

Sec. 334.403. TAX AUTHORIZED. (a) A municipality or a county may impose a facility use tax for the use or occupancy by livestock of a stall or pen at a designated facility in that municipality or county for which the municipality or county has issued bonds to plan, acquire, establish, develop, construct, or renovate.

(b) The municipality or county may impose the facility use tax under this subchapter only at a designated facility that is an approved venue project.

(c) A municipality or county may impose a tax under this subchapter only if:

(1) the municipality or county issues bonds or other obligations under Section 334.043, and those bonds or other obligations are outstanding and unpaid; and

(2) the tax is approved at an election held under Section 334.024.

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

Sec. 334.404. TAX RATE. (a) The tax authorized by this subchapter is imposed on each stall or pen used or occupied at a designated facility.

(b) The tax may be imposed at any uniform amount not to exceed $20 for each event.

(c) The ballot proposition at the election held to adopt the tax must specify the maximum amount of the tax to be adopted.

(d) Different tax rates may be imposed based on the duration of an event, except that the rate must be uniform for each event of similar duration and the rate may not exceed the maximum rate adopted by the voters.

(e) The municipality or the county may repeal, decrease, and increase the rates of the tax imposed under this subchapter, except that the tax may not be imposed at a rate exceeding the maximum rate adopted by the voters.

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

Sec. 334.405. INCREASE IN MAXIMUM TAX RATE. (a) If the voters of a municipality or county have approved a tax under this subchapter at a rate of less than $20 for each event, the municipality or county may call an election for the approval of the voters to increase the maximum tax rate. If a majority of the votes cast at the election approve the new rate, the municipality or county may increase the rate of the tax to the maximum rate approved.

(b) The ballot for an election to increase the rate of the tax shall be printed to permit voting for or against the proposition: "The increase of the facility use tax for the purpose of financing _____ (insert description of the designated facility) to a maximum rate of _____ per event (insert new maximum rate not to exceed $20)."

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

Sec. 334.406. EXEMPTION. The municipality by ordinance or the county by order may establish an exemption from the tax imposed under this subchapter for the use or occupancy of stalls or pens at a designated facility by livestock at a county junior livestock show.

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

Sec. 334.407. NATURE OF TAX. (a) The tax imposed by this subchapter is a debt owed to the owner or lessee of the designated facility by the user or sublessee of the designated facility and is recoverable at law.

(b) The tax imposed by this subchapter is not an occupation tax imposed on the owner or lessee of the designated facility, the user or the sublessee of the designated facility, the livestock, or the owner of the livestock.

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

Sec. 334.408. EFFECTIVE DATE OF TAX. A tax imposed under this subchapter or a change in a tax rate takes effect on the date prescribed by the ordinance or order imposing the tax or changing the rate.

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

Sec. 334.409. COLLECTION OF TAX. (a) The municipality or county may require the owner or lessee of a designated facility in the municipality or county to collect the tax for the benefit of the municipality or county.

(b) A person required to collect a tax imposed under this subchapter shall report and send the taxes to the municipality or county as provided by the municipality or county imposing the tax.

(c) For a tax imposed under this subchapter, a municipality or county may prescribe penalties, including interest charges, for failure to keep records required by the municipality or county, to report when required, or to pay the tax when due. An attorney acting for the municipality or county may bring suit against a person who fails to collect a tax under this subchapter and to pay the tax to the municipality or county as required.

(d) A municipality or county may permit a person who is required to collect a tax under this subchapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. The municipality or county may provide that the person may retain the amount only if the person pays the tax and files reports as required by the municipality or county.

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

Sec. 334.410. DEPOSIT OF TAX REVENUE. Revenue from the tax imposed under this subchapter shall be deposited in the venue project fund of the municipality or county imposing the tax.

Added by Acts 2003, 78th Leg., ch. 672, Sec. 1, eff. June 20, 2003.

CHAPTER 335. SPORTS AND COMMUNITY VENUE DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 335.001. DEFINITIONS. In this chapter:

(1) "Approved venue project" has the meaning assigned by Section 334.001, except that the approval of the project must occur under this chapter.

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

(3) "District" means a venue district created under this chapter.

(4) "Related infrastructure" has the meaning assigned by Section 334.001.

(5) "Venue" has the meaning assigned by Section 334.001.

(6) "Venue project" has the meaning assigned by Section 334.001, except that the actions described by that section must occur under this chapter.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.002. APPLICATION TO VENUE CONSTRUCTED UNDER OTHER LAW. A district may use this chapter for a venue project relating to a venue and related infrastructure planned, acquired, established, developed, constructed, or renovated under other law, including Chapter 505 of this code or Subchapter E, Chapter 451, Transportation Code.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.21, eff. April 1, 2009.

Sec. 335.003. OTHER USES OF VENUE PERMITTED. This chapter does not prohibit the use of a venue for an event that is not related to a purpose described by Section 334.001, such as a community-related event.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.004. SPECIFIC PERFORMANCE. (a) The legislature expressly finds and determines that:

(1) the presence of a professional sports team in an approved venue project built or renovated under this chapter provides a unique value to the district that built or renovated the project and to each political subdivision that created the district that cannot be adequately valued in money; and

(2) the district that built or renovated the approved venue project and each political subdivision that created the district would suffer irreparable injury if a professional sports team breaches its obligation to play its home games in the approved venue project as required by an agreement between the sports team and the district.

(b) An agreement described by Subsection (a)(2) shall be enforceable by specific performance in the courts of this state. A waiver of this remedy is contrary to public policy and is unenforceable and void.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.005. SUITS; SERVICE OF PROCESS. A district, through its board, may sue and be sued in any court of this state in the name of the district. Service of process on a district may be had by serving either the current chairman of the board or the current chief executive officer of the district or its registered agent designated by the district by filing a statement with the office of the secretary of state setting forth: (i) the name of the district, and (ii) the name and address of the district's registered agent, which address must be in the State of Texas. The statement shall be executed on behalf of the district by an officer of the district. A

district may change the name and address of its registered agent by filing another statement with the office of the secretary of state. Upon such filing, the prior registered agent for the district shall cease to be the registered agent for the district and service of process may not be had by serving the prior registered agent.

Added by Acts 2003, 78th Leg., ch. 981, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER B. VENUE DISTRICT

Sec. 335.021. CREATION. A county and a municipality, two or more counties, two or more municipalities, or a combination of municipalities, counties, or municipalities and counties may create a venue district under this chapter to plan, acquire, establish, develop, construct, or renovate one or more venue projects in the district subject to voter approval under Subchapter D.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.022. ORDER CREATING DISTRICT. A county and a municipality, two or more counties, two or more municipalities, or a combination of municipalities, counties, or municipalities and counties may create a district under this chapter by adopting concurrent orders. A concurrent order must:

(1) contain identical provisions;

(2) define the boundaries of the district to be coextensive with the combined boundaries of each creating political subdivision; and

(3) designate the number of directors, the manner of appointment, and the manner in which the chair will be appointed in accordance with Section 335.031.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.023. POLITICAL SUBDIVISION; RECORDS AND OPEN MEETINGS. (a) A district is a political subdivision of the creating political subdivisions and of this state.

(b) A district is subject to Chapter 551, Government Code.

(c) A district's books, records, and papers relating to an

approved venue project and the revenue used to finance the project are public information and subject to disclosure under Chapter 552, Government Code.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 164, Sec. 5, 6, eff. May 27, 2003.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 335.031. COMPOSITION AND APPOINTMENT OF BOARD. (a) A district is governed by a board of at least four directors.

(b) The board is appointed by the mayors or county judges, or both as appropriate, of the political subdivisions that create the district in accordance with the concurrent order.

(c) Directors serve staggered two-year terms. A director may be removed by the appointing person at any time without cause. Successor directors are appointed in the same manner as the original appointees.

(d) To qualify to serve as a director, a person must be a resident of the appointing political subdivision. An employee, officer, or member of the governing body of the appointing political subdivision may serve as a director, but may not have a personal interest in a contract executed by the district other than as an employee, officer, or member of the governing body of the political subdivision.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1076, Sec. 3, eff. Sept. 1, 1999.

Sec. 335.032. COMPENSATION. A board member is not entitled to compensation, but is entitled to reimbursement for actual and necessary expenses.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.033. MEETINGS. The board shall conduct its meetings in the district.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.034. OFFICERS. Except as provided by Section 335.035, the presiding officer is designated as provided by the concurrent order. The board shall designate from the members of the board a secretary and other officers the board considers necessary.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1076, Sec. 4, eff. Sept. 1, 1999.

Sec. 335.035. ADDITIONAL REQUIREMENTS FOR BOARD OF DISTRICT CREATED IN POPULOUS COUNTY. (a) This section applies only to the board of a district located in whole or in part in a county with a population of 3.3 million or more.

(b) The mayor of each municipality and the commissioners court of each county that create the district shall appoint an equal number of directors in accordance with the orders creating the district and Section 335.031. An appointment of a director by a mayor must be confirmed by a majority vote of the governing body of the municipality.

(c) The mayors of the municipalities and the commissioners courts of the counties that create the district shall appoint a presiding officer by concurrent orders on or before the 30th day after the date on which either the two-year term of office expires or a vacancy occurs in the presiding officer's position. The appointment must be confirmed by a majority vote of the governing body of each municipality. The presiding officer serves for a two-year term.

(d) If the mayors and the commissioners courts fail to agree on the appointment of a presiding officer under Subsection (c), the board shall appoint, from the district's directors, a presiding officer by a majority vote at the first board meeting that follows the 30-day period described by Subsection (c). The confirmation requirement of Subsection (c) does not apply to an appointment of a presiding officer under this subsection.

(e) A presiding officer appointed under Subsection (d) shall resign as a director before serving as presiding officer. The

vacancy created by the resignation is filled by the authority that appointed the director. The appointed director serves for the remainder of the vacated term.

(f) Section 335.031(b) does not apply to a district located in a county with a population of 3.3 million or more.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 5, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 91, eff. September 1, 2011.

SUBCHAPTER D. VENUE PROJECTS

Sec. 335.051. RESOLUTION AUTHORIZING PROJECT. (a) A district by resolution may provide for the planning, acquisition, establishment, development, construction, or renovation of a venue project if:

(1) the comptroller determines under Section 335.052 or 335.053 that the implementation of the resolution will not have a significant negative fiscal impact on state revenue;

(2) to the extent required by Section 335.0535 or 335.0536, a rapid transit authority determines that the implementation of the resolution will not have a significant negative impact on the authority's ability to provide services and will not impair any existing contracts; and

(3) the resolution is approved by a majority of the qualified voters of each political subdivision that created the district voting at one election or at separate elections called and held for that purpose under Section 335.054.

(b) The resolution must designate each venue project and each method of financing authorized by this chapter that the district wants to use to finance a project. A resolution may designate more than one method of financing.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.052. STATE FISCAL IMPACT ANALYSIS. (a) Before calling an election on the resolution under Section 335.054, the district shall send a copy of the resolution to the comptroller.

(b) Before the 15th day after the date the comptroller receives

the copy of the resolution, the comptroller shall:

(1) perform an analysis to determine if approval and implementation of the resolution will have a significant negative fiscal impact on state revenue; and

(2) provide to the district written notice of the results of the analysis.

(c) If the comptroller determines that implementation will have a significant negative fiscal impact on state revenue, the written analysis required under Subsection (b)(2) must include information on how to change the resolution so that implementation will not have a significant negative fiscal impact on state revenue.

(d) If the comptroller does not complete the analysis and provide the notice before the 30th day after the date the comptroller receives the copy of the resolution, the comptroller is considered to have determined that approval and implementation of the resolution will not have a significant negative fiscal impact on state revenue.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.053. APPEAL OF COMPTROLLER DETERMINATION. (a) If the comptroller determines under Section 335.052 that implementation of the resolution will have a significant negative fiscal impact on state revenue, the district may contest the finding by filing an appeal with the comptroller not later than the 10th day after the date the district receives the written notice under Section 335.052.

(b) Before the 11th day after the date the comptroller receives the appeal under Subsection (a), the comptroller shall perform a new analysis to determine if implementation of the resolution will have a significant negative fiscal impact on state revenue and provide to the district written notice of the results of the analysis.

(c) If the comptroller again determines that implementation will have a significant negative fiscal impact on state revenue, the written analysis required under Subsection (b) must include additional information on how to change the resolution so that implementation will not have a significant negative fiscal impact on state revenue.

(d) If the comptroller does not comply with Subsection (b) before the 30th day after the date the comptroller receives the appeal or request for information, the comptroller is considered to

have determined that approval and implementation of the resolution will not have a significant negative fiscal impact on state revenue.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.0535. TRANSPORTATION AUTHORITY IMPACT ANALYSIS. (a) If the resolution contains a proposed sales and use tax under Subchapter D, Chapter 334, and imposition of the tax would result in the reduction of the tax rate of a rapid transit authority created under Chapter 451, Transportation Code, or a regional transportation authority created under Chapter 452, Transportation Code, the district shall send a copy of the resolution to the authority before calling an election on the resolution under Section 335.054.

(b) Before the 30th day after the date the rapid transit authority receives the copy of the resolution, the authority shall:

(1) perform an analysis to determine if implementation of the proposed sales and use tax and the resulting reduction in the authority's tax rate will:

(A) have a significant negative impact on the authority's ability to provide services; or

(B) impair any existing contracts; and

(2) provide to the district written notice of the results of the analysis.

(c) If the rapid transit authority determines that implementation of the resolution will have a significant negative impact on the authority's ability to provide services or will impair any existing contracts, the written analysis required under Subsection (b)(2) must include information on how to change the resolution so that implementation will not have a significant negative impact on the authority's ability to provide service or will not impair any existing contracts.

(d) If the rapid transit authority does not complete the analysis and provide the notice before the 30th day after the date the authority receives the copy of the resolution, the authority is considered to have determined that implementation of the resolution will not have a significant negative impact on the authority's ability to provide services and will not impair any existing contracts.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.0536. APPEAL OF AUTHORITY DETERMINATION. (a) If a rapid transit authority determines under Section 335.0535 that implementation of the resolution will have a significant negative impact on the authority's ability to provide services or will impair an existing contract, the district may contest the finding by filing an appeal with the authority not later than the 10th day after the date the district receives the written notice under Section 335.0535.

(b) Before the 11th day after the date the rapid transit authority receives the appeal under Subsection (a), the authority shall perform a new analysis to determine if implementation of the resolution will have a significant negative impact on the authority's ability to provide services or will impair an existing contract and provide to the district written notice of the results of the analysis.

(c) If the authority again determines that implementation will have a significant negative impact on the authority's ability to provide services or will impair an existing contract, the written analysis required under Subsection (b) must include additional information on how to change the resolution so that implementation will not have a significant negative impact on the authority's ability to provide services and will not impair an existing contract.

(d) If the rapid transit authority does not comply with Subsection (b) before the 11th day after the date the authority receives the appeal or request for information, the authority is considered to have determined that approval and implementation of the resolution will not have a significant negative impact on the authority's ability to provide services and will not impair any existing contracts.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.054. ELECTION. (a) If the comptroller determines under Section 335.052 or 335.053 that implementation of the resolution will not have a significant negative fiscal impact on state revenue, and, if applicable, the rapid transit authority determines under Section 335.0535 or 335.0536 that the implementation will not have a significant impact on the authority's ability to

provide service and will not impair any existing contracts, the board may order an election or elections on the question of approving and implementing the resolution. In a district created by a county with a population of more than 3.3 million and a municipality with a population of more than 1.9 million, the board may order one district-wide election or may order a separate election in each political subdivision that created the district. The election or elections shall be held on the same day.

(b) The order calling the election or elections must:

(1) allow the voters to vote separately on each venue project;

(2) designate the venue project;

(3) designate each method of financing authorized by this chapter that the district wants to use to finance the project and the maximum rate of each method; and

(4) allow the voters to vote, in the same proposition or in separate propositions, on each method of financing authorized by this chapter that the district wants to use to finance the project and the maximum rate of each method.

(c) The ballot at the election or elections held under this section must be printed to permit voting for or against the proposition: "Authorizing _____ (insert name of district) to _____ (insert description of venue project) and to impose a _____ tax (insert type of tax) at the rate of _____ (insert maximum rate) for the purpose of financing the venue project."

(d) If more than one method of financing is to be voted on in one proposition, the ballot must be printed to permit voting for or against the proposition: "Authorizing _____ (insert name of district) to _____ (insert description of venue project) and to impose a _____ tax at the rate of _____ (insert each type of tax and the maximum rate of each tax) for the purpose of financing the venue project."

(d-1) If the proposition is authorizing the imposition of a hotel occupancy tax, the ballot must include the following language: "If approved, the maximum hotel occupancy tax rate imposed from all sources in _____ (insert name of district) would be _____ (insert the maximum combined hotel occupancy tax rate that would be imposed from all sources at any location in the district if the rate proposed in the ballot proposition is adopted) of the price paid for a room in a hotel."

(e) If a majority of the votes cast at the district-wide election or at the election in each creating political subdivision approves the proposition authorizing the project, the district may implement the resolution. If separate elections are held and a majority of the votes cast in one or more of the creating political subdivisions disapproves the proposition authorizing the project, the district may not implement the resolution. If the project is approved, but one or more financing methods contained in separate propositions are disapproved, the district may use only the approved financing methods.

(f) The Election Code governs an election held under this chapter.

(g) Notwithstanding Subsections (c) and (d) of this section, if a district is presently collecting taxes from one or more methods of financing and seeks to use a portion of the revenue from the tax or taxes to finance the venue project and does not seek to change the rate of tax or taxes, the ballot at the election or elections held under this section must be printed to permit voting for or against the proposition: "Authorizing _____ (insert name of district) to _____ (insert description of venue project) using a portion of existing _____ (insert type of tax or taxes) tax for the purpose of financing the project."

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1076, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 99, eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 966 (H.B. 1908), Sec. 5, eff. September 1, 2013.

Sec. 335.055. FALSE AND MISLEADING CAMPAIGN MATERIAL. (a) In this section, "campaign material" means a communication supporting or opposing the authorization of a venue project that:

(1) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(2) appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication.

(b) A person may not print, broadcast, or publish, or cause to

be printed, broadcast, or published, campaign material that contains false and misleading information.

(c) An individual may file a complaint with the Texas Ethics Commission in accordance with Subchapter E, Chapter 571, Government Code, alleging a violation of Subsection (b). The commission may impose a penalty in accordance with Chapter 571, Government Code, if the commission determines that the campaign materials contain false and misleading information.

(d) Notwithstanding any other law, the Texas Ethics Commission has jurisdiction to consider and investigate a complaint filed under this section and to impose a penalty.

Added by Acts 2001, 77th Leg., ch. 1044, Sec. 7, eff. Sept. 1, 2001.

SUBCHAPTER E. POWERS AND DUTIES

Sec. 335.071. GENERAL POWERS OF DISTRICT. (a) A district may:

(1) perform any act necessary to the full exercise of the district's powers;

(2) accept a gift, grant, or loan from a:

(A) department or agency of the United States;

(B) department, agency, or political subdivision of this state; or

(C) public or private person;

(3) acquire, sell, lease, convey, or otherwise dispose of property or an interest in property, including a right-of-way or easement or an approved venue project, under terms and conditions determined by the district;

(4) employ necessary personnel; and

(5) adopt rules to govern the operation of the district and its employees and property.

(b) A district may contract with a public or private person, including one or more political subdivisions that created the district or a sports team, club, organization, or other entity, to:

(1) plan, acquire, establish, develop, construct, or renovate an approved venue project; or

(2) perform any other act the district is authorized to perform under this chapter, other than conducting an election under this chapter.

(c) A district may contract with or enter into an interlocal

agreement with a school district, junior or community college district, or an institution of higher education as defined by Section 61.003, Education Code, for a purpose described by Subsection (b). The contract or interlocal agreement may provide for joint ownership and operation or joint use.

(d) The competitive bidding laws, including Chapter 271, do not apply to the planning, acquisition, establishment, development, construction, or renovation of an approved venue project.

(e) A district may impose any tax a municipality or county may impose under Chapter 334, subject to approval of the voters of the district as prescribed by this chapter and Chapter 334. The district shall impose the tax in the same manner as a county or municipality and may issue bonds in lieu of a county or municipality as required by Chapter 334.

(f) A district may not levy an ad valorem tax.

(g) In a transaction with another public entity that is made as provided by Subsection (a)(3), the public purpose found by the legislature under Section 335.074 is adequate consideration for the district and the other public entity.

(h) A district has the right and power of eminent domain under Chapter 21, Property Code, to acquire and condemn any interest, including a fee simple interest, in real property in the district, in connection with the planning, acquisition, establishment, development, construction, renovation, repair, maintenance, or operation of an approved venue project. A district is not required to provide bond for appeal or bond for costs under Section 21.021(a)(2) or (3), Property Code, in any lawsuit to which the district is a party and is not required to deposit more than the amount of the award in a suit.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.0711. LIMIT ON POWER TO OWN OR ACQUIRE REAL PROPERTY IN CERTAIN DISTRICTS. (a) In this section:

(1) "Facility site" means a site for:

(A) an arena, coliseum, stadium, or other type of area or facility:

(i) that is used or is planned for use for one or more professional or amateur sports events, community events, or

other sports events, including rodeos, livestock shows, agricultural expositions, promotional events, and other civic or charitable events; and

(ii) for which a fee for admission to the events is charged or is planned to be charged; or

(B) a convention center facility or related improvement such as a convention center, civic center, civic center building, auditorium, theater, opera house, music hall, exhibition hall, rehearsal hall, museum, or aquarium.

(2) "Real property" includes an arena, coliseum, stadium, facility site, and related infrastructure.

(3) "Related infrastructure" means a store, restaurant, on-site hotel, concession, automobile parking facility, road, street, water or sewer facility, or other on-site improvement that relates to and enhances the use, value, or appeal of a venue.

(b) This section applies only to a district located in a county with a population of 3.3 million or more.

(c) Notwithstanding any other provision of this chapter, a district may not own or acquire real property by eminent domain or any other method unless the property is for a facility site or related infrastructure as part of an approved venue project.

(d) A district may not participate in any way in planning or zoning issues before the governing body of a municipality.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 92, eff. September 1, 2011.

Sec. 335.0715. USE OF FINANCING FOR CERTAIN PROJECTS. Notwithstanding any other provision of this chapter, a district, a municipality or county that created the district, or an entity created by or acting on behalf of or in conjunction with the district, municipality, or county, that contracts with a professional sports team or the team's owner or representative on or before November 1, 1998, for the team to relocate and play at an arena, coliseum, or stadium in the district may not use any method of financing authorized by this chapter to finance the acquisition or construction of the arena, coliseum, or stadium if the team is

playing under an existing contract and is located in another arena, coliseum, or stadium owned by a different municipality or county in this state unless the governing body of that different municipality or county consents to the contract.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.072. VENUE PROJECT FUND. (a) A district in which an approved venue project is located shall establish by resolution a fund known as the venue project fund. The district shall establish separate accounts within the fund for the various revenue sources.

(b) The district shall deposit into the venue project fund:

(1) the proceeds from any tax imposed by the district;

(2) all revenue from the sale of bonds or other obligations by the district;

(3) money received under Section 335.075 from a political subdivision that created the district; and

(4) any other money required by law to be deposited in the fund.

(c) The district may deposit into the venue project fund:

(1) money received by the district from innovative funding concepts such as the sale or lease of luxury boxes or the sale of licenses for personal seats; and

(2) any other revenue received by the district from the approved venue project, including stadium rental payments and revenue from concessions and parking.

(d) The district may use money in the venue project fund to:

(1) reimburse or pay the costs of planning, acquiring, establishing, developing, constructing, or renovating one or more approved venue projects in the district;

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the district or to refund bonds or other obligations; or

(3) pay the costs of operating or maintaining one or more approved venue projects.

(e) Money deposited into the venue project fund, including money deposited under Subsection (c), is the property of the district depositing the money.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.0725. BOOKS, RECORDS, AND PAPERS. The books, records, and papers of the district relating to an approved venue project and the revenue used to finance the project are public information and subject to disclosure under Chapter 552, Government Code.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.073. BONDS AND OTHER OBLIGATIONS. (a) A district in which an approved venue project is located may issue bonds, including revenue bonds and refunding bonds, or other obligations to pay the costs of the approved venue project. For a district created by a county with a population of more than 3.3 million and a municipality with a population of more than 1.9 million, the power of the district to issue bonds or other obligations is subject to the prior approval by the governing bodies of the county and municipality.

(b) The bonds or other obligations and the proceedings authorizing the bonds or other obligations shall be submitted to the attorney general for review and approval as required by Chapter 1202, Government Code.

(c) The bonds or other obligations must be payable from and secured by the designated revenues in the venue project fund.

(d) The bonds or other obligations may mature serially or otherwise not more than 30 years from their date of issuance.

(e) The bonds or other obligations are not a debt of and do not create a claim for payment against the revenue or property of the district other than the revenue sources pledged and an approved venue project for which the bonds are issued.

(f) A district may issue obligations and enter into credit agreements under Chapter 1371, Government Code. For purposes of that chapter, a district is a "public utility" and an approved venue project is an "eligible project."

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 100, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.327, eff. Sept. 1, 2001.

Sec. 335.074. PUBLIC PURPOSE OF VENUE PROJECT. (a) The legislature finds for all constitutional and statutory purposes that an approved venue project is owned, used, and held for public purposes by the district.

(b) Section 25.07(a), Tax Code, does not apply to a leasehold or other possessory interest granted by the district while the district owns the venue project.

(c) The project is exempt from taxation under Section 11.11, Tax Code, while the district owns the venue project.

(d) If approval and implementation of a resolution under this chapter results in the removal from a school district's property tax rolls of real property otherwise subject to ad valorem taxation, the operator of the approved venue project located on that real property shall pay to the school district on January 1 of each year in which the project is in operation and in which the real property is exempt from ad valorem taxation an amount equal to the ad valorem taxes that would otherwise have been levied for the preceding tax year on that real property by the school district, without including the value of any improvements. This subsection does not apply if the operator of the project is a political subdivision of this state.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.075. CONTRIBUTION OR DEDICATION OF CERTAIN REVENUE BY POLITICAL SUBDIVISION. (a) A political subdivision, including a metropolitan rapid transit authority created under Chapter 451, Transportation Code, may contribute or dedicate to the district all or part of the sales and use tax revenue received by the political subdivision that is generated, paid, or collected by any or all businesses operating in an approved venue project. If the political subdivision contributes or dedicates the revenue to assist the district in securing bonds or other obligations, including refunding bonds, that are issued to provide funding for an approved venue project, the political subdivision may not make a contribution or dedication for that purpose after the date on which those bonds or other obligations are no longer outstanding.

(b) A political subdivision may contribute or dedicate sales and use tax revenue under this section only if the governing body or governing board of the political subdivision determines that the

approved venue project from which the revenue was or will be derived will contribute to the economic, cultural, or recreational development or well-being of the residents of the political subdivision.

(c) The district shall deposit revenue contributed or dedicated under this section in the venue project fund and may use the revenue in the same manner as any other money deposited in the fund.

(d) A contribution or dedication of revenue under this section is not a "method of financing" of the district as that term is used in Subchapter D.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 1, eff. Sept. 1, 1997.

Sec. 335.076. CONTRACTS WITH HISTORICALLY UNDERUTILIZED BUSINESSES. (a) This section applies only in relation to an approved venue project constructed and operated under the authority of a district in a county with a population of more than 2.5 million that is adjacent to a county with a population of more than 2.1 million.

(b) In this section, "historically underutilized business" has the meaning assigned by Section 2161.001, Government Code.

(c) A district shall make a good faith effort to increase the contracts the district awards to historically underutilized businesses for the construction of a venue project. The district shall make the good faith effort in the same manner, based on the same rules, and under the same conditions as a state agency under Section 2161.182, Government Code.

(d) A district shall make a good faith effort to increase the contracts the district awards to historically underutilized businesses for the purchase of goods and services relating to the construction or operation of a venue project. The district shall make the good faith effort in the same manner, based on the same rules, and under the same conditions as a state agency under Section 2161.181, Government Code.

Added by Acts 2003, 78th Leg., ch. 164, Sec. 7, eff. May 27, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 175, eff. September 1, 2023.

Sec. 335.077. EXEMPTION FROM CONSTRUCTION CONTRACTING LAW. Chapter 2269, Government Code, does not apply to this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 3.05, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(26), eff. September 1, 2013.

Sec. 335.078. VENUE DISTRICT AS ENDORSING MUNICIPALITY OR COUNTY. (a) A venue district located in a county with a population of 3.3 million or more may act as an endorsing municipality or endorsing county under Subtitle E-1, Title 4, Government Code.

(b) A venue district acting as an endorsing municipality or endorsing county under Subtitle E-1, Title 4, Government Code, shall remit for deposit into the trust fund established for the games or event the amounts determined by the comptroller under that subtitle. The comptroller shall determine the incremental increase in receipts attributable to the games or event and related activities under that subtitle based on the amount of applicable taxes imposed by each municipality or county that comprises the venue district and not on the amount of taxes imposed by the venue district.

(c) A venue district acting as an endorsing municipality or endorsing county under Subtitle E-1, Title 4, Government Code, may guarantee the district's obligations under a games or event support contract by pledging surcharges from user fees, including parking or ticket fees, charged in connection with the games or event and related activities.

(d) Subject to Subsection (b), a venue district acting as an endorsing municipality or endorsing county under Subtitle E-1, Title 4, Government Code, as authorized by this section, has all the powers of an endorsing municipality or endorsing county under that subtitle, and any action an endorsing municipality or endorsing county is required to take by ordinance or order under that subtitle may be taken by order or resolution of the venue district.

Added by Acts 2015, 84th Leg., R.S., Ch. 661 (H.B. 3402), Sec. 1, eff. June 17, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 2.01, eff.

April 1, 2021.

SUBCHAPTER F. CODE OF CONDUCT FOR CERTAIN DISTRICTS

Sec. 335.101. DEFINITIONS. In this subchapter:

(1) "Code of conduct" means the rules adopted by a board under Section 335.104.

(2) "Director" means a board member.

(3) "Employee" means a district employee.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.

Sec. 335.102. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a district located in a county with a population of 3.3 million or more.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 93, eff. September 1, 2011.

Sec. 335.103. APPLICABILITY OF LAWS. (a) Chapter 171 applies to an employee as if the employee was a local public official, as that term is defined by Section 171.001.

(b) Chapter 553, Government Code, applies to an employee as if the employee was a public servant, as that term is defined by Section 553.001, Government Code.

(c) Chapter 573, Government Code, applies to an employee as if the employee was a public official, as that term is defined in Section 573.001, Government Code.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.

Sec. 335.104. CREATION OF CODE OF CONDUCT; DISTRIBUTION. (a) The board by rule shall adopt and maintain a code of conduct that establishes the general duties of directors and employees of the district and specific rules for directors, employees, and vendors. The code of conduct must include:

(1) information regarding a person's duties relating to the standards of conduct for a government officer or employee;

(2) a summary of and citation to the laws applicable to the conduct of a district officer, employee, or vendor, including a copy of the text of this subchapter;

(3) disclosure requirements for directors, employees, and vendors; and

(4) a summary of penalties provided by this subchapter and other law.

(b) The presiding officer of the board shall provide to directors, employees, and vendors, as often as necessary, the code of conduct created under this section.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.

Sec. 335.105. RULEMAKING. The board by rule may modify its code of conduct.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.

Sec. 335.106. GENERAL DUTIES. A director or employee shall:

(1) be, and give the appearance of being, independent and impartial;

(2) place, and give the appearance of placing, the public interest above any private interest in the person's position of public trust; and

(3) strive to instill confidence in the integrity of the board and employees.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.

Sec. 335.107. VENDOR REQUIREMENTS. (a) This section applies to a vendor who:

(1) responds to a district request for a proposal; or

(2) otherwise communicates with the district in connection with a potential agreement between that vendor and the district.

(b) The board by rule shall design a conflict of interest questionnaire that requires disclosure of a vendor's affiliations or

business relationships that might cause a conflict of interest.

(c) A vendor shall file a completed conflict of interest questionnaire with the board secretary not less than seven days after the vendor:

(1) begins contract discussions or negotiations with the district; or

(2) forwards an application, response to a request for proposal, correspondence, or other writings related to an agreement or potential agreement with the district.

(d) A vendor shall file an updated completed questionnaire with the board secretary:

(1) on September 1 of each year; and

(2) after each event that would make a statement in the questionnaire incomplete or inaccurate.

(e) Each contract entered into between a district and a vendor shall contain a provision stating that the contract is voidable if the board or vendor violates this section. A contract entered into between a district and a vendor is voidable if the board or a vendor violates this section.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.

Sec. 335.108. DISCLOSURE OF VENDOR RELATIONSHIP BY DIRECTORS AND EMPLOYEES. (a) The board by rule shall design a conflicts disclosure statement for directors and employees that includes:

(1) a requirement that each director and employee disclose:

(A) an employment or other business relationship with a vendor that results in the director's or employee's receiving taxable income, including the nature and extent of the relationship; and

(B) any gifts received in a 12-month period by that director or employee from a vendor that have a total value of more than $250;

(2) an acknowledgment from the director or employee that:

(A) the disclosure applies to a person related to that director or employee within the first degree by consanguinity or by affinity, as defined by Subchapter B, Chapter 573, Government Code; and

(B) the statement covers the preceding 12 months; and

(3) a signature by the director or employee acknowledging

execution of the statement under penalty of perjury.

(b) The disclosure requirement applies to a director or employee and requires disclosure for a person related to that director or employee within the first degree by consanguinity or by affinity, as defined by Subchapter B, Chapter 573, Government Code.

(c) A director or employee shall file a conflicts disclosure statement with the board secretary not later than the end of the first business day on which the director or employee became aware of the relationship between the district and the vendor if:

(1) the vendor has contracted with the district;

(2) the district is considering conducting business with the vendor; or

(3) a vendor offered one or more gifts to that director or employee in the previous 12-month period that have a total value of more than $250.

(d) If a director has knowledge that another director has not made a disclosure required by this section, the director may notify the presiding officer of the board of this fact, or may notify the board secretary if the presiding officer is the person who failed to make the disclosure. The presiding officer or secretary, as appropriate, may make a preliminary inquiry regarding the disclosure and may notify in writing the official who appointed the director of the alleged failure to disclose and the reasons for believing that a failure to disclose occurred.

(e) An employee may not receive during a 12-month period any gifts from a vendor that have a total value of more than $250 unless the employee receives written approval from the presiding officer.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.

Sec. 335.1085. FILING OF FINANCIAL STATEMENT BY DIRECTOR. (a) A director shall file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with:

(1) the board; and

(2) the Texas Ethics Commission.

(b) Subchapter B, Chapter 572, Government Code:

(1) applies to a director as if the director were a state officer; and

(2) governs the contents, timeliness of filing, and public

inspection of a statement filed under this section.

(c) A director commits an offense if the director fails to file the statement required by this section. An offense under this section is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.03, eff. Sept. 1, 2003.

Sec. 335.109. REQUEST FOR OPINION FROM GENERAL COUNSEL. (a) An employee, with the presiding officer's consent, or a director may seek a written advisory opinion from the district's general counsel concerning whether a violation of Section 335.107 or 335.108 exists in a certain situation. The request must provide detailed information about the alleged violation or hypothetical situation.

(b) After receiving a request, the district's general counsel shall prepare a written advisory opinion addressing whether a violation has occurred under the information provided.

(c) A director or employee may rely in good faith on a written advisory opinion issued under this section with respect to a potential violation of Section 335.107 or 335.108.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.

Sec. 335.110. PENALTIES. The board may reprimand, suspend, or terminate an employee who violates the district's code of conduct.

Added by Acts 1999, 76th Leg., ch. 1076, Sec. 2, eff. Sept. 1, 1999.

SUBCHAPTER G. DISSOLUTION OF DISTRICTS IN LESS POPULOUS COUNTIES

Sec. 335.151. APPLICABILITY. This subchapter applies only to a district wholly located in a county with a population of less than 15,000.

Added by Acts 2011, 82nd Leg., R.S., Ch. 951 (H.B. 1040), Sec. 2, eff. June 17, 2011.

Sec. 335.152. DISSOLUTION. The governing body of each

political subdivision that created a district may dissolve the district by adopting a concurrent order.

Added by Acts 2011, 82nd Leg., R.S., Ch. 951 (H.B. 1040), Sec. 2, eff. June 17, 2011.

Sec. 335.153. ASSETS AND LIABILITIES. (a) The assets and liabilities of a district dissolved under this subchapter shall be transferred to the county in which the district is located.

(b) After payment of district liabilities, the county shall use the district assets that remain for an approved venue project of the county.

Added by Acts 2011, 82nd Leg., R.S., Ch. 951 (H.B. 1040), Sec. 2, eff. June 17, 2011.

CHAPTER 336. MULTI-JURISDICTIONAL LIBRARY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 336.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of trustees.

(2) "District" means a multi-jurisdictional library district created under this chapter.

(3) "Executive director" means an executive director employed under Section 336.103.

(4) "Lead governmental entity" means the county or municipality that proposes to create a district under this chapter.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.002. NATURE OF DISTRICT. A district created under this chapter is a special district and a political subdivision of this state.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.003. MULTI-JURISDICTIONAL PUBLIC LIBRARY. (a) A district created under this chapter shall establish, equip, support, operate, and maintain one or more public libraries for the dissemination of educational programs and general information relating to the arts, sciences, literature, and other subject areas of interest to the public.

(b) Each public library created under this chapter must be accredited by and meet the standards for basic public library services established by the Texas State Library and Archives Commission.

(c) A library created under this chapter must be open to all members of the public under identical conditions.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

SUBCHAPTER B. CREATION OF DISTRICT; ELECTIONS

Sec. 336.021. LEAD GOVERNMENTAL ENTITY; PARTICIPATION BY OTHER COUNTIES AND MUNICIPALITIES. (a) A district may be created by a lead governmental entity that, by resolution, proposes the creation of a district for specific counties and municipalities that by resolution agree to have their territory in the district.

(b) The governing body of a county or municipality may adopt a resolution under Subsection (a) on its own motion.

(c) As soon as feasible and prudent, the lead governmental entity shall provide over 50 percent of the initial assets to the district.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 2, eff. June 15, 2007.

Sec. 336.022. TERRITORY INCLUDED IN DISTRICT. (a) The lead governmental entity shall describe the initial district territory in the resolution creating the district under Section 336.021. The initial district territory must include all territory of each municipality or county that agrees to have its territory in the

district under Section 336.021, except as provided by Subsections (c) and (d).

(b) The district may include incorporated or unincorporated territory and may include any territory in one or more counties that agree by resolution to have the counties' territory in the district under Section 336.021.

(c) If the boundaries of the proposed district include any territory that is part of a municipality that operates a municipal public library, the governing body of that municipality must consent by resolution to allow the inclusion of that municipal territory in the proposed district. This subsection applies only to a municipality whose municipal public library is:

(1) financed and operated by that municipality;

(2) accredited for membership in the state library system; and

(3) open and free of charge to all members of the public under identical conditions.

(d) Except as provided by this subsection and Subsection (c), the district includes all incorporated and unincorporated areas of a county that agrees by resolution to have its territory in the district under Section 336.021. In its resolution, the county may exclude any incorporated area of the county where the local sales and use tax exceeds one and one-half percent.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 3, eff. June 15, 2007.

Sec. 336.023. ELECTION. (a) A district may call an election to approve one or both of the following:

(1) a sales tax; or

(2) an ad valorem tax on property in the district.

(b) A sales tax and an ad valorem tax may be approved at the same election.

(c) Before a district may call the first election under this section, the lead governmental entity by resolution must set:

(1) the date of the election; and

(2) the type and rate of each tax that will appear on the ballot proposition under Section 336.027.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 4, eff. June 15, 2007.

Sec. 336.027. BALLOT PROPOSITION. (a) If the board calls an election to approve a sales tax, the ballot for the election shall be printed to permit voting for or against the proposition: "The adoption of a sales tax in the _____ (name of district) at a rate up to _____ (rate of tax) percent to be used for district purposes."

(b) If the board calls an election to approve an ad valorem tax, the ballot for the election shall be printed to permit voting for or against the proposition: "The adoption of an ad valorem tax in the _____ (name of district) at a rate up to _____ (rate of tax) cents per $100 valuation of property to be used for district purposes."

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 5, eff. June 15, 2007.

Sec. 336.028. RESULTS OF ELECTION. (a) If a majority of the voters voting in the election favor the adoption of a sales tax or of an ad valorem tax, the board shall by resolution declare the rate of the sales tax or the amount of the ad valorem tax adopted and enter the result in its minutes.

(b) If a majority of the voters voting in the election are not in favor of a tax under Subsection (a), the board shall declare the measure defeated and enter the result in its minutes.

(c) An order under Subsection (a) must:

(1) contain a description of the district's boundaries and a map of the district;

(2) state the election date; and

(3) state the total number of votes cast for and against the ballot proposition.

(d) The board must file in the deed records of the county in which the district is located a resolution issued under Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 6, eff. June 15, 2007.

Sec. 336.029. INITIAL BOARD AND PRESIDING OFFICER. (a) Appointments to the initial board are made as provided by Subchapter C, except that the initial trustees shall agree to stagger their terms, with four members' terms expiring in two years and three members' terms expiring in one year. If the trustees cannot agree on the initial staggering, the trustees shall draw lots to determine the staggering.

(b) The lead governmental entity shall appoint the board's initial presiding officer to serve a two-year term in that capacity. The requirement of Section 336.056 that the board of trustees elect the presiding officer does not apply to the presiding officer appointed under this subsection.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.030. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The district may:

(1) pay all costs and expenses necessarily incurred in the creation and organization of the district; and

(2) reimburse any person for money advanced for the costs and expenses described by Subdivision (1).

(b) Payments under this section may be made from money obtained from taxes or other district revenue.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June

17, 2005.

SUBCHAPTER C. BOARD OF TRUSTEES

Sec. 336.051. GOVERNING BODY. A district is governed by a seven-member board of trustees. The board has control over and shall manage the affairs of the district.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.052. APPOINTMENT. (a) The lead governmental entity shall appoint four trustees to the board.

(b) The most populous county in which the district is located shall appoint three trustees to the board, unless the county is the lead governmental entity. If the county is the lead governmental entity, the most populous municipality in the county shall appoint three trustees.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.053. ELIGIBILITY FOR APPOINTMENT. A person is eligible for appointment to the board if the person:

(1) resides in the district;

(2) is registered to vote in a county in which the district is located; and

(3) has recognized expertise in:

(A) library services;

(B) education;

(C) information technology;

(D) local or Texas history; or

(E) business management.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.054. TERMS. (a) Trustees serve staggered two-year

terms.

(b) A trustee may not serve more than two consecutive terms or more than four terms.

(c) A trustee who has served two consecutive terms but fewer than four terms is eligible for appointment to a new term on the date one year after the date on which the trustee's former term ended.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.055. VACANCY. A vacancy on the board shall be filled by appointment for the remainder of the unexpired term by the governmental entity that appointed the vacating member.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.056. OFFICERS. (a) The board shall elect a trustee to serve as the board's presiding officer. The presiding officer presides at all board meetings and is the chief executive officer of the district.

(b) The board shall elect from among its members a vice presiding officer, a secretary, and any other officers the board considers necessary.

(c) The vice presiding officer acts as the presiding officer if the presiding officer is incapacitated or absent from a meeting.

(d) The secretary acts as the presiding officer if both the presiding officer and vice presiding officer are incapacitated or absent from a meeting.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.057. MEETINGS AND NOTICE. (a) The board may establish regular meetings to conduct district business and may hold special meetings at other times as the business of the district requires.

(b) The board shall hold its meetings at a designated meeting

place.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.058. CONFLICT OF INTEREST IN CONTRACT. (a) For purposes of this section, a trustee who is an employee of, or a trustee related within the second degree by affinity or consanguinity as determined under Subchapter B, Chapter 573, Government Code, to a person who is financially interested in a contract is considered to be financially interested in the contract.

(b) A trustee who is financially interested in a contract may not vote on the acceptance of the contract or participate in the discussion on the contract.

(c) A trustee who is financially interested in a contract with the district shall disclose that fact to the other trustees. The disclosure shall be entered into the minutes of the meeting.

(d) The failure of a trustee to disclose the trustee's financial interest in a contract and to have the disclosure entered in the minutes invalidates the contract.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

SUBCHAPTER D. OTHER ADMINISTRATIVE PROVISIONS

Sec. 336.101. BYLAWS. The board may adopt bylaws to govern:

(1) the time, place, and manner of conducting board meetings;

(2) the powers, duties, and responsibilities of the board's officers and employees;

(3) the disbursement of money by a check, draft, or warrant;

(4) the appointment and authority of board committees;

(5) the keeping of accounts and other records; and

(6) any other matter the board considers appropriate.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.102. EMPLOYEES. (a) The board may employ any person the board considers necessary for conducting the district's affairs.

(b) The board may remove any employee.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.103. EXECUTIVE DIRECTOR. (a) The board may employ an executive director to administer the affairs of the district under policies and requirements established by the board.

(b) The board shall set the compensation of the executive director.

(c) The board may delegate to the executive director the board's authority to hire, establish the compensation of, review the performance of, discipline, or remove a district employee.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.104. QUALIFICATIONS OF EXECUTIVE DIRECTOR OR LIBRARY DIRECTOR. The board shall ensure that the executive director or a subordinate library director has all necessary qualifications to oversee library services in the district.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 10, eff. September 1, 2007.

Sec. 336.105. BOND. The board may require an officer or employee to execute a bond payable to the district and conditioned on the faithful performance of the person's duties.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.106. EMPLOYEE PLANS. (a) The board may provide for and administer a workers' compensation, health benefit, retirement, disability, or death compensation plan for district employees.

(b) The board may adopt a plan to accomplish the purpose of this section.

(c) The board, after notice and a hearing, may change any plan or rule adopted under this section.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.107. RECORDS; SECRETARY. (a) The secretary is responsible for ensuring that all district books and other records are properly maintained.

(b) The board may appoint the executive director or an employee as assistant or deputy secretary to assist the secretary in performing the secretary's duties under this section. The assistant or deputy secretary may certify the authenticity of any district record.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

SUBCHAPTER E. POWERS AND DUTIES

Sec. 336.151. GENERAL POWERS OF DISTRICT. A district has all authority necessary to accomplish district purposes.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.152. RULES; VIOLATION OF RULES. (a) The board may adopt reasonable rules to accomplish district purposes.

(b) The board may set monetary charges in reasonable amounts for the violation of a district rule.

(c) The board may exclude from the use of a public library a person who intentionally violates a rule adopted by the board under this section.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.153. LOCATION OF PUBLIC LIBRARY FACILITIES. A district may locate a public library facility at any place in the district, including the territory of a political subdivision within the district.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.154. CONTRACTS. A district may contract with any person for any district purpose.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.155. AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS. (a) A district may contract with a municipality, county, or other political subdivision for the district to provide public library services outside the district.

(b) A district may enter into one or more agreements with any municipality included in the area of the district for the acquisition or operation of the municipality's library facilities.

(c) A district and a political subdivision may enter into an agreement for any district purpose.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 7, eff. June 15, 2007.

Sec. 336.156. PROPERTY AND EQUIPMENT. (a) A district may construct, acquire, own, lease, operate, maintain, repair, or improve any land, works, materials, supplies, improvements, facilities, equipment, vehicles, machinery, appliances, or other property as

necessary.

(b) If a district acquires property of any kind related to the operation of a public library, the district may assume the contracts and obligations of the previous owner.

(c) A district may hold, use, sell, lease, dispose of, and acquire, by any means, property and licenses, patents, rights, and other interests necessary, convenient, or useful to the exercise of any district power.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.157. SURPLUS PROPERTY. A district may sell, lease, or dispose of in any other manner and at any time:

(1) any right, interest, or property of the district that is not needed for, or, if a lease, is inconsistent with, the efficient operation and maintenance of a public library; or

(2) surplus materials or other property that is not needed for a district purpose.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.158. SUITS. (a) A district may sue and be sued in any court of this state in the name of the district.

(b) A court of this state shall take judicial notice of the establishment of a district.

(c) A district is not required to give security for costs in a suit or to give a supersedeas or cost bond in an appeal of a judgment.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.159. EXPANSION OF DISTRICT. (a) The district may expand to include additional territory if the commissioners court of the county in which the district is located holds an election for that purpose in the territory to be added to the district.

(b) If a majority of the voters voting at the expansion election approve the expansion of the district, the territory of the district is expanded.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.160. DONATION OF LIBRARY ASSETS BY COUNTY OR MUNICIPALITY. A county or municipality, including the lead governmental entity, that creates or joins the district may donate library assets to the district without compensation from the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 8, eff. June 15, 2007.

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 336.201. BORROWING. A district may borrow money.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.202. FEES; GENERAL. (a) A district may impose any necessary charges or fee for providing a district service.

(b) A district may discontinue a service to enforce payment of an unpaid charge or fee that is owed to the district.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.203. LIBRARY FEES. A library created under this chapter may charge reasonable fees to remove certain materials from the library or for other services provided by the library.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.204. DEPOSITORY. (a) The board shall designate one or more banks inside or outside of the district to serve as the depository for district money.

(b) The district shall deposit district tax revenue in a depository bank.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.205. EXPENDITURES. A district may disburse district money only by check, draft, money order, or another instrument that must be signed by one or more officers or employees of the district as designated by the board.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.206. ACCOUNTS AND RECORDS; AUDITS. (a) A district shall keep a complete system of accounts.

(b) The district shall have an annual audit of the district affairs performed by an independent certified public accountant.

(c) A signed copy of the audit report shall be delivered to each trustee not later than the 120th day after the closing date of each fiscal year.

(d) A copy of the audit report shall be kept on file at the district office and shall be made available for inspection by any interested person during regular business hours.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.207. FISCAL YEAR. The fiscal year of the district is from October 1 to September 30, unless the board adopts another fiscal year.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.208. GRANTS AND DONATIONS. A district may accept and administer a grant or donation from any source for any district purpose.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

SUBCHAPTER G. TAXES

Sec. 336.251. AD VALOREM TAX ASSESSMENT AND COLLECTION. (a) A district may impose an ad valorem tax.

(b) If the district imposes an ad valorem tax, the board shall have the taxable property in its district assessed for ad valorem taxation and the ad valorem taxes in the district collected, in accordance with any one of the methods set forth in this section, and any method adopted remains in effect until changed by the board.

(c) The board may have the taxable property in its district assessed or its taxes collected, wholly or partly, by the tax assessors or tax collectors of any county, municipality, taxing district, or other governmental entity in which all or any part of the district is located. The tax assessors or tax collectors of a governmental entity, on the request of the board, shall assess and collect the taxes of the district in the manner prescribed in the Property Tax Code. Tax assessors and tax collectors shall receive compensation in an amount agreed on between the appropriate parties, but not to exceed two percent of the ad valorem taxes assessed.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.252. IMPOSITION, COMPUTATION, ADMINISTRATION, AND GOVERNANCE OF SALES TAX. (a) A district may impose a sales and use tax.

(b) Chapter 323, Tax Code, to the extent not inconsistent with this chapter, governs the imposition, computation, administration, and governance of the sales and use tax under this subchapter, except that Sections 323.101, 323.105, 323.404, and 323.406-323.408, Tax Code, do not apply.

(c) Chapter 323, Tax Code, does not apply to the use and allocation of revenue under this chapter.

(d) In applying the procedures under Chapter 323, Tax Code, to the district, the district's name shall be substituted for "the county," and "board of trustees" is substituted for "commissioners court."

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.253. SALES AND USE TAX RATES. The permissible rates for a sales and use tax imposed under this chapter are one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, and one-half of one percent.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.254. ABOLITION OF OR CHANGE IN AD VALOREM TAX RATE. (a) The board by order may decrease or abolish the ad valorem tax rate or may call an election to increase, decrease, or abolish the ad valorem tax rate. In an election under this subsection and except as provided by Subsection (b), the board shall use the procedures for a tax election under Subchapter B.

(b) At the election, the ballot shall be printed to permit voting for or against the proposition: "The increase (decrease) in the ad valorem tax rate of _____ (name of district) to a rate up to _____ (rate of tax) cents per $100 valuation of taxable property to be used for district purposes" or "The abolition of the district ad valorem tax." The increase or decrease in the tax rate, or the abolition of the tax, is effective if it is approved by a majority of the votes cast.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1148, Sec. 11(4), eff. June 15, 2007.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 9, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 11(4), eff.

June 15, 2007.

Sec. 336.255. USE OF TAX. A tax collected under this subchapter may be used only for a district purpose and may be pledged as collateral for borrowing money to further those purposes.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

SUBCHAPTER H. BONDS

Sec. 336.301. DEFINITION. In this subchapter, "bond" includes a note.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.302. GENERAL POWER TO ISSUE BONDS. (a) A district may issue bonds at any time and for any amount it considers necessary or appropriate to acquire, construct, equip, or improve district facilities.

(b) The board by resolution may authorize the issuance of bonds payable solely from revenue.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.303. LEAD GOVERNMENTAL ENTITY'S CONSENT REQUIRED. The district may not issue bonds under this subchapter unless the lead governmental entity's governing body by resolution consents to the issuance.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.304. SHORT-TERM BONDS. (a) The board by resolution may issue bonds that are secured by revenue or taxes of the district

if the bonds:

(1) have a term of not more than 12 months; and

(2) are payable only from revenue or taxes received on or after the date of their issuance and before the end of the fiscal year following the fiscal year in which the bonds are issued.

(b) Approval by the attorney general or registration with the comptroller is not required for a bond issued under this section.

(c) An election is not required to issue bonds under this section.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.305. ELECTION REQUIRED FOR CERTAIN BONDS SECURED BY TAXES. Except for short-term bonds issued under Section 336.304, bonds payable wholly or partly from taxes may not be issued unless authorized by a majority of the votes received in an election held for that purpose.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.306. SECURITY PLEDGED. (a) To secure the payment of a district's bonds, the district may:

(1) pledge all or part of revenue realized from any tax that the district may impose;

(2) pledge all or part of revenue from library facilities; or

(3) mortgage all or part of the district's facilities, including any part of the facilities subsequently acquired.

(b) A district may, subject to the terms of the bond indenture or the resolution authorizing the issuance of the bonds, secure payment of district bonds by encumbering a separate item of the district facilities and may acquire, use, hold, or contract for the property by lease, chattel mortgage, or other conditional sale.

(c) This subchapter does not prohibit a district from encumbering one or more library facilities to purchase, construct, or improve one or more other district facilities.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.307. LIEN ON REVENUE. The expense of operation and maintenance of library facilities, including salaries, labor, materials, and repairs necessary to provide efficient service, and every other proper item of expense are a first lien and charge against the revenue of a district encumbered under this chapter.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.308. EXCHANGE OF BONDS FOR EXISTING LIBRARY FACILITIES. A district's revenue bonds may be exchanged, in lieu of cash, for the property of all or part of existing library facilities to be acquired by the district.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

Sec. 336.309. GOVERNMENTAL ENTITIES NOT RESPONSIBLE FOR DISTRICT OBLIGATIONS. A governmental entity, other than the district, is not required to pay a bond or other district obligation.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.

SUBCHAPTER I. DISSOLUTION

Sec. 336.351. PROCEDURE FOR DISSOLUTION. (a) The board by resolution may dissolve a district if the governing body of the lead governmental entity by resolution consents to the dissolution.

(b) If the district has debt, including any outstanding bonds, the district shall remain in existence for the sole purpose of paying its debt and transferring any remaining assets. The board shall transfer to the lead governmental entity any assets that remain after satisfaction of all debt.

(c) After the debt is paid and the assets are transferred, the

district is dissolved.

Added by Acts 2005, 79th Leg., Ch. 883 (S.B. 1205), Sec. 2, eff. June 17, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1148 (S.B. 940), Sec. 10, eff. June 15, 2007.

CHAPTER 337. CULTURAL EDUCATION FACILITIES FINANCE CORPORATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 337.001. SHORT TITLE. This chapter may be cited as the Cultural Education Facilities Finance Corporation Act.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.004(a), eff. September 1, 2017.

Sec. 337.002. LEGISLATIVE FINDINGS. The legislature finds that:

(1) the health, education, and general welfare of the people of this state require the development of new and expanded cultural and community facilities for the purpose of:

(A) exhibition and promotion of and education about:

(i) performing, dramatic, visual, and literary arts;

(ii) culture and history of races, ethnic groups, and national heritage groups; and

(iii) history, natural history, and science;

(B) promotion of and education about health and physical fitness, public health and safety, conservation and preservation of the environment or natural resources, child care, adoption, children's services, substance abuse counseling, family counseling, and care of persons who are elderly or have disabilities;

(C) administration of the provision and granting of charitable services and grants in accomplishment of the purposes described by Paragraph (B);

(D) promotion of and education about activities devoted to general cultural improvement, including scouting programs and programs by which agencies seek to provide facilities for retreats in urban or rural settings;

(E) support of agencies devoted to the eradication, elimination, or amelioration of one or more diseases or afflictions affecting health or improving the condition of individuals or groups within a community; and

(F) provision of public health and safety and charitable services to communities in times of catastrophe or disaster;

(2) the existence, development, and expansion of cultural facilities are essential to the continuing education, health, general welfare, and comfort of the citizens of this state;

(3) the means and measures authorized and the assistance provided by this chapter are in the public interest and serve a public purpose in promoting the health, education, and general welfare of the people of this state by securing and maintaining cultural facilities and the resulting advancement of culture and civilization;

(4) qualified cultural organizations in this state have invested substantial funds in useful and beneficial cultural facilities and have experienced difficulty in undertaking additional projects because of:

(A) the partial inadequacy of their own funds or of funds potentially available from local subscription sources; and

(B) limitations of local financial institutions in providing necessary financing for these facilities;

(5) qualified nonprofit corporations in this state have invested substantial funds in useful and beneficial cultural facilities and have experienced difficulty in undertaking additional projects because of:

(A) the inadequacy of their own funds or of funds potentially available from local subscription sources; and

(B) limitations of local financial institutions in providing necessary financing for these facilities; and

(6) the enactment of this chapter will:

(A) secure for present and future generations the benefits and nurturance derived from these cultural facilities; and

(B) enhance the public health and welfare of communities receiving the benefit of the cultural facilities.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.004(a), eff. September 1, 2017.

Sec. 337.003. CONSTRUCTION. (a) This chapter shall be liberally construed to carry out the intention of the legislature.

(b) If this chapter conflicts with a provision of another law, this chapter prevails.

(c) It is the intent of the legislature that a corporation authorized under this chapter is a public corporation, constituted authority, and instrumentality authorized to issue bonds on behalf of the municipality or county on behalf of which the corporation is created, all within the meaning of Section 103, Internal Revenue Code of 1986, and the regulations adopted and rulings issued under that section, and this chapter shall be construed accordingly.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.004(a), eff. September 1, 2017.

Sec. 337.004. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of a corporation.

(2) "Bond" means a bond, note, interim certificate, or other evidence of indebtedness of a corporation issued under this chapter.

(3) "Corporation" means a cultural education facilities finance corporation created under this chapter.

(4) "Cost," as applied to a cultural facility, means the cost of the cultural facility, including:

(A) the cost of the acquisition of land or a right-of-way, an option to purchase land, an easement, a leasehold estate in land, or another interest in land related to the cultural facility;

(B) the cost of acquisition, construction, repair, renovation, remodeling, or improvement of a building or structure to be used as or in conjunction with the cultural facility;

(C) the cost of site preparation, including the cost of demolishing or removing a building or structure the removal of which is necessary or incident to providing the cultural facility;

(D) the cost of architectural, engineering, legal, and related services; the cost of the preparation of a plan, specification, study, survey, or estimate of cost and revenue; and other expenses necessary or incident to planning, providing, or

determining the feasibility and practicability of the cultural facility;

(E) the cost of machinery, equipment, furnishings, and facilities necessary or incident to the equipping of the cultural facility so that the cultural facility may be placed in operation;

(F) the cost of finance charges, interest, marketing, and start-up of the cultural facility before and during construction and for not more than two years after completion of construction;

(G) costs paid or incurred in connection with the financing of the cultural facility, including out-of-pocket expenses; bond insurance; a letter of credit, standby bond purchase agreement, or liquidity facility; financing, legal, accounting, financial advisory, and appraisal fees; expenses and disbursements; a policy of title insurance; printing, engraving, and reproduction services; and the initial or acceptance fee of a trustee, paying agent, remarketing agent, tender agent, or indexing agent; and

(H) direct and indirect costs of the corporation incurred in connection with providing the cultural facility, including reasonable sums to reimburse the corporation for time spent by the corporation's agents or employees in providing and financing the cultural facility.

(5) "Cultural facility" means any capital expenditure by a user. The term includes:

(A) real property or an interest in real property, including buildings and improvements, or equipment, furnishings, or other personal property that:

(i) is found by the board to be necessary or convenient to finance, refinance, acquire, construct, enlarge, remodel, renovate, improve, furnish, or equip for cultural education or community benefit;

(ii) is made available for use by the general public, the user, or a community group; and

(iii) is used for a purpose described by Section 337.002(1);

(B) a facility in which any of the following entities engage in any activity in which the entity is permitted to engage:

(i) a nonprofit corporation exempt from the franchise tax under Section 171.063, Tax Code;

(ii) an organization described in Section 11.18, Tax Code; or

(iii) an organization described in Section 501(c)(3), Internal Revenue Code of 1986; and

(C) facilities incidental, subordinate, or related to or appropriate in connection with property described by Paragraph (A) or (B), regardless of the date of construction or acquisition.

(6) "Furnishings" include works of art, books, artifacts, scientific instruments, stage sets, musical scores, collections, and other property necessary or useful for the purposes of the cultural facility.

(7) "User" means a nonprofit corporation exempt from the franchise tax under Section 171.063, Tax Code, an organization described in Section 11.18, Tax Code, or an organization described in Section 501(c)(3), Internal Revenue Code of 1986, that will own, use, operate, or develop a cultural facility after the financing, acquisition, or construction of the cultural facility.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.004(a), eff. September 1, 2017.

Sec. 337.005. ADOPTION OF ALTERNATE PROCEDURE. If a procedure under this chapter is held by a court to be unconstitutional, a corporation by resolution may provide an alternate procedure conforming to the constitution.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.004(a), eff. September 1, 2017.

SUBCHAPTER B. CREATION AND OPERATION OF CORPORATION

Sec. 337.011. AUTHORITY TO CREATE. (a) A municipality or county may create a nonmember, nonstock, public, cultural educational facilities finance corporation for the sole purpose of acquiring, constructing, providing, improving, financing, and refinancing cultural facilities for the public purposes stated in this chapter.

(b) The municipality or county shall create and organize the corporation in the same manner as a health facilities development corporation is created and organized under Chapter 221, Health and Safety Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec.

20.004(a), eff. September 1, 2017.

Sec. 337.012. GENERAL POWERS. (a) A corporation has the same powers, authority, and rights:

(1) with respect to cultural facilities and health facilities that a health facilities development corporation has with respect to health facilities under Chapter 221, Health and Safety Code; and

(2) with respect to educational facilities, housing facilities, and other facilities incidental, subordinate, or related to those facilities that a nonprofit corporation created under Section 53.35(b), Education Code, or an authority created under Section 53.11, Education Code, has under Chapter 53, Education Code.

(b) Except as provided by this chapter, a corporation has the same rights and powers as a corporation organized under the former Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or formed under the Texas Nonprofit Corporation Law, as described by Section 1.008(d), Business Organizations Code.

(c) The powers of a corporation under Subsection (a) include the power to:

(1) acquire, purchase, lease, mortgage, and convey property with respect to a facility;

(2) borrow money by issuing bonds, notes, and other obligations;

(3) lend money for the corporation's corporate purposes;

(4) invest and reinvest the corporation's funds; and

(5) secure the corporation's bonds, notes, and obligations by mortgaging, pledging, assigning, or otherwise encumbering the corporation's property or assets.

(d) Except as otherwise provided by this chapter, any bonds, notes, or other obligations authorized under Subsection (c) must be issued in accordance with Chapter 1201, Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.004(a), eff. September 1, 2017.

Sec. 337.013. SCOPE OF AUTHORITY. (a) Notwithstanding any provision of Chapter 221, Health and Safety Code, or Chapter 53,

Education Code, a corporation may exercise:

(1) the authority of the corporation inside or outside the limits of:

(A) the municipality that created the corporation if the municipality is located in a county with a population of more than 300,000; or

(B) the county that created the corporation if the county has a population of more than 300,000; and

(2) the powers of the corporation on behalf of a user outside of this state if the user also conducts lawful activities in this state.

(b) A corporation may exercise the authority of the corporation without the consent or other action of any person that would otherwise be required under Chapter 221, Health and Safety Code, or Chapter 53, Education Code, unless the articles of incorporation or bylaws of the corporation provide differently.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.004(a), eff. September 1, 2017.

Sec. 337.014. LIMITATION ON AUTHORITY. The authority of a corporation may not preempt the police powers of any sponsoring entity or any other laws regulating or empowering sponsoring entities to regulate the activities of the corporation.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.004(a), eff. September 1, 2017.

Sec. 337.015. LIMITATION ON CORPORATE PURPOSES. (a) A municipality or county that creates a corporation may limit the corporation's purposes in the proceedings directing the creation of the corporation by prohibiting the corporation from financing particular types of cultural facilities, including a cultural facility to be used for a purpose specified in the proceedings.

(b) As a condition of providing financing, a corporation may restrict a person receiving financing from using a cultural facility for a particular purpose.

(c) A restriction imposed by a municipality or county on a corporation may be enforced by the governing body of the sponsoring

entity by injunction or mandamus.

(d) A violation of a restriction by a corporation may not impair the validity of an obligation incurred by the corporation.

Added by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.004(a), eff. September 1, 2017.

TITLE 11. PUBLIC SAFETY

SUBTITLE A. MUNICIPAL PUBLIC SAFETY

CHAPTER 341. MUNICIPAL LAW ENFORCEMENT

SUBCHAPTER A. REGULAR POLICE FORCE

Sec. 341.001. POLICE FORCE OF TYPE A GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type A general-law municipality may establish and regulate a municipal police force.

(b) The governing body by ordinance may provide for the appointment of police officers the governing body considers necessary and for the terms of office and qualifications of the officers.

(c) The governing body by ordinance may provide that the police officers serve at the pleasure of the governing body.

(d) Each police officer shall execute a bond as the governing body may require. The bond must be conditioned that the officer will faithfully perform the officer's duties.

(e) A police officer has:

(1) the powers, rights, duties, and jurisdiction granted to or imposed on a peace officer by the Code of Criminal Procedure; and

(2) other powers and duties prescribed by the governing body.

(f) A police officer may serve in each county in which the municipality is located all process issued by a municipal court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 829, Sec. 2, eff. Aug. 28, 1995.

Sec. 341.002. POLICE FORCE OF TYPE C GENERAL-LAW MUNICIPALITY. The governing body of a Type C general-law municipality may appoint police officers that the governing body considers necessary and may define the duties of the officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 341.003. POLICE FORCE OF HOME-RULE MUNICIPALITY. A home-rule municipality may provide for a police department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. OTHER POLICE FORCES

Sec. 341.011. SPECIAL POLICE FORCE IN TYPE A GENERAL-LAW MUNICIPALITY. (a) The mayor of a Type A general-law municipality shall summon as many residents as the mayor considers necessary to serve as a special police force if the mayor considers the force necessary:

(1) to enforce the municipality's laws, avert danger, or protect life or property;

(2) because of riot, outbreak, calamity, or public disturbance; or

(3) because of threat of serious violation of law or order, of outbreak, or of other danger to the municipality or its inhabitants.

(b) The mayor may issue the summons by:

(1) proclamation or other order addressed to the residents of the municipality generally or to the residents of a ward or other subdivision of the municipality; or

(2) personal notice.

(c) A special police force has the powers of the regular police force of the municipality.

(d) A special police force is subject to the orders of the mayor and shall perform the duties required by the mayor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 341.012. POLICE RESERVE FORCE. (a) The governing body of a municipality may provide for the establishment of a police reserve force.

(b) The governing body shall establish qualifications and standards of training for members of the reserve force.

(c) The governing body may limit the size of the reserve force.

(d) The chief of police shall appoint the members of the

reserve force. Members serve at the chief's discretion.

(e) The chief of police may call the reserve force into service at any time the chief considers it necessary to have additional officers to preserve the peace and enforce the law.

(f) A member of a reserve force who is not a peace officer as described by Article 2A.001, Code of Criminal Procedure, may act as a peace officer only during the actual discharge of official duties.

(g) An appointment to the reserve force must be approved by the governing body before the person appointed may carry a weapon or otherwise act as a peace officer. On approval of the appointment of a member who is not a peace officer as described by Article 2A.001, Code of Criminal Procedure, the person appointed may carry a weapon only when authorized to do so by the chief of police and only when discharging official duties as a peace officer.

(h) Reserve police officers may act only in a supplementary capacity to the regular police force and may not assume the full-time duties of regular police officers without complying with the requirements for regular police officers. On approval of the appointment of a member who is a peace officer as described by Article 2A.001, Code of Criminal Procedure, the chief of police may authorize the person appointed to carry a weapon or act as a peace officer at all times, regardless of whether the person is engaged in the actual discharge of official duties, or may limit the authority of the person to carry a weapon or act as a peace officer to only those times during which the person is engaged in the actual discharge of official duties. A reserve police officer, regardless of whether the reserve police officer is a peace officer as described by Article 2A.001, Code of Criminal Procedure, is not:

(1) eligible for participation in any program provided by the governing body that is normally considered a financial benefit of full-time employment or for any pension fund created by statute for the benefit of full-time paid peace officers; or

(2) exempt from Chapter 1702, Occupations Code.

(i) This section does not limit the authority of the mayor of a Type A general-law municipality to summon a special police force under Section 341.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 90, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.825, eff. Sept. 1, 2001.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.142, eff. January 1, 2025.

SUBCHAPTER C. MARSHALS

Sec. 341.021. MARSHAL OF TYPE A GENERAL-LAW MUNICIPALITY. (a) The marshal of a Type A general-law municipality is the ex officio chief of police.

(b) The marshal may appoint one or more deputies. The appointment of a deputy must be approved by the governing body of the municipality.

(c) The marshal or a deputy marshal shall be available to the municipal court when it is in session and shall promptly and faithfully execute writs and process issued by the court. The marshal may execute writs and serve process within each county in which the municipality is located, both inside and outside the municipal boundaries.

(d) The marshal may take suitable and sufficient bail for the appearance before the municipal court of a person charged with a violation of an ordinance or law of the municipality.

(e) The marshal has the same power and jurisdiction as a peace officer has under the Code of Criminal Procedure to execute warrants, to prevent and suppress crime, and to arrest offenders. The marshal has other powers, not inconsistent with state law, that the governing body confers by ordinance.

(f) The marshal may close a theater, ballroom, or other place of public recreation or entertainment to prevent a breach of the peace or to preserve quiet and good order.

(g) The marshal shall:

(1) quell riots, disorder, and disturbance of the peace in the municipality;

(2) take into custody a person who disturbs the peace of the municipality;

(3) arrest, without warrant, a person who disturbs the peace, otherwise engages in disorderly conduct or a disturbance, or obstructs or interferes with the performance of the marshal's duties; and

(4) perform other duties, not inconsistent with state law, that the governing body prescribes by ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 829, Sec. 3, eff. Aug. 28, 1995.

Sec. 341.022. MARSHAL OF TYPE B GENERAL-LAW MUNICIPALITY. (a) The marshal of a Type B general-law municipality has the same power within the municipality that a constable has within a precinct and is entitled to the same fees as a constable.

(b) The marshal shall perform duties, not inconsistent with state law, prescribed by the bylaws and ordinances of the municipality for fees determined by the governing body of the municipality.

(c) The marshal is the tax assessor-collector of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 341.901. WATCHMEN IN TYPE A GENERAL-LAW MUNICIPALITY. The governing body of a Type A general-law municipality may appoint watchmen and prescribe their powers and duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 341.902. WORKHOUSE AND HOUSE OF CORRECTION IN TYPE A GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type A general-law municipality may build and establish one or more jails inside or outside the municipality.

(b) The governing body may adopt necessary rules and appoint necessary keepers or assistants for the jails.

(c) Vagrants and disorderly persons may be confined in a jail on commitment by a municipal court judge. A person who fails or refuses to pay the fine or costs imposed for an offense may be confined in a jail.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 17, eff. Sept. 1, 2001.

Sec. 341.903. AUTHORITY OF HOME-RULE MUNICIPALITY TO POLICE MUNICIPALLY OWNED PROPERTY OUTSIDE MUNICIPALITY. A home-rule municipality may police the following areas owned by and located outside the municipality:

(1) parks and grounds;

(2) lakes and land contiguous to and used in connection with a lake; and

(3) speedways and boulevards.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 341.904. POSSESSION OR USE OF LAW ENFORCEMENT IDENTIFICATION, INSIGNIA, OR VEHICLE IN A MUNICIPALITY. (a) In this section, "police identification item" means a badge, identification card, insignia, shoulder emblem, or uniform of a municipal police department.

(b) A person commits an offense if in a municipality the person intentionally or knowingly:

(1) uses, possesses, or wears:

(A) a police identification item of the municipal police department;

(B) an item bearing the insignia or design prescribed by the police chief of the municipality for officers and employees of the municipal police department to use while engaged in official activities; or

(C) within the municipal police department's jurisdiction, an item that is deceptively similar to a police identification item of the department;

(2) uses, within the municipal police department's jurisdiction, the name of the department in connection with an object to create the appearance that the object belongs to or is used by the department; or

(3) uses, possesses, or operates, within the municipal police department's jurisdiction, a marked patrol vehicle that is deceptively similar to a department patrol vehicle.

(c) An item or vehicle is deceptively similar to a police identification item or patrol vehicle of a municipal police department if the circumstances under which the object is used could mislead a reasonable person as to the object's identity.

(d) An offense under this section is a Class B misdemeanor.

(e) It is an affirmative defense to prosecution under this section that:

(1) the object was used or intended to be used exclusively for decorative purposes and:

(A) the actor was not engaged in an activity involving police work or security work; or

(B) the object was used only in an artistic or dramatic presentation;

(2) the actor was engaged in the commercial manufacturing or commercial sales of the items described by Subsection (b);

(3) the actor was a licensed peace officer who:

(A) was on active duty discharging an official duty for an agency listed under Article 2A.001, Code of Criminal Procedure, and acting under the agency's direct supervision; and

(B) was not privately employed as or hired on an individual or independent contractor basis as a patrolman, guard, watchman, flagman, or traffic conductor;

(4) the police chief consented, after determining that consent would serve law enforcement interests in the municipality, to the actor's:

(A) using or possessing a police identification item or other insignia of the municipal police department;

(B) using, possessing, or wearing an item or insignia similar to a police identification item or insignia of the municipal police department; or

(C) operating a vehicle similar to a patrol vehicle of the municipal police department; or

(5) the actor prosecuted under this section for wearing a uniform wore a light blue uniform shirt in a municipality that uses a light blue uniform shirt with navy blue pocket flaps and epaulets for its police officers, if the actor's shirt did not have:

(A) the contrasting navy blue pocket flaps or epaulets found on the municipal police officers' uniform shirts; and

(B) a shoulder emblem similar in shape, color, or design to an emblem found on the municipal police officers' uniform shirts.

(f) The attorney general or a municipal attorney, district attorney, or prosecuting attorney performing the duties of district attorney for the district in which a court is located may apply to

the district court to enjoin a violation of this section. A district court shall grant an injunction if evidence demonstrates that a violation has occurred or will likely occur.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.05(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 101, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 94, eff. September 1, 2011.
Acts 2017, 85th Leg., R.S., Ch. 982 (H.B. 683), Sec. 1, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 982 (H.B. 683), Sec. 2, eff. September 1, 2017.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.143, eff. January 1, 2025.

Sec. 341.906. LIMITATIONS ON REGISTERED SEX OFFENDERS IN GENERAL-LAW MUNICIPALITIES. (a) In this section:

(1) "Child safety zone" means premises where children commonly gather. The term includes a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or other facility that regularly holds events primarily for children. The term does not include a church, as defined by Section 544.251, Insurance Code.

(2) "Playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

(3) "Registered sex offender" means an individual who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) To provide for the public safety, the governing body of a general-law municipality by ordinance may restrict a registered sex offender from going in, on, or within a specified distance of a child safety zone in the municipality.

(c) It is an affirmative defense to prosecution of an offense under the ordinance that the registered sex offender was in, on, or within a specified distance of a child safety zone for a legitimate purpose, including transportation of a child that the registered sex

offender is legally permitted to be with, transportation to and from work, and other work-related purposes.

(d) The ordinance may establish a distance requirement described by Subsection (b) at any distance of not more than 1,000 feet.

(e) The ordinance shall establish procedures for a registered sex offender to apply for an exemption from the ordinance.

(f) The ordinance must exempt a registered sex offender who established residency in a residence located within the specified distance of a child safety zone before the date the ordinance is adopted. The exemption must apply only to:

(1) areas necessary for the registered sex offender to have access to and to live in the residence; and

(2) the period the registered sex offender maintains residency in the residence.

Added by Acts 2017, 85th Leg., R.S., Ch. 997 (H.B. 1111), Sec. 3, eff. September 1, 2017.

CHAPTER 342. MUNICIPAL FIRE PROTECTION

SUBCHAPTER A. PROVISIONS APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 342.001. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type A general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.002. RULES RELATING TO FRAME BUILDINGS. (a) The governing body of the municipality may, for the purpose of preventing calamitous fires, prohibit the construction, location, relocation, or repair of wooden buildings within areas of the municipality designated by the governing body. Within those areas, the governing body may:

(1) prohibit the relocation of a wooden building from outside the area to a site in the area;

(2) prohibit the relocation of a wooden building from one site to another in the area;

(3) direct that all buildings within the area be

constructed of fireproof materials;

(4) prohibit the rebuilding or repairing in the area of a wooden building that has been damaged to the extent of 50 percent or more of its value;

(5) declare to be a nuisance any dilapidated building; and

(6) declare to be a nuisance any wooden building that is in the area and that the governing body considers a danger to contiguous buildings or considers a cause or promoter of fires.

(b) The governing body may determine the method of ascertaining damage under Subsection (a)(4) and may direct the manner in which a building declared to be a nuisance under Subsection (a)(5) or (6) is to be repaired or removed or the nuisance is to be abated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.003. FIRE REGULATIONS. (a) The governing body of the municipality may:

(1) prohibit dangerous chimneys, flues, fireplaces, stovepipes, ovens, and other apparatus used in or about any building, and require the apparatus to be removed or placed in a safe condition;

(2) prohibit the unsafe deposit of ashes;

(3) appoint officers who may enter any building or enclosure to examine and determine whether it is in a dangerous condition and, if the building or enclosure is in a dangerous condition, require that it be put in a safe condition;

(4) require the inhabitant of a building to maintain as many fire buckets and means of access to the roof as prescribed by the governing body, and regulate the use of those items in the event of a fire;

(5) require the owner or occupant of a building to maintain access to the roof and to stairs or ladders that lead to the roof;

(6) prohibit or otherwise regulate factories and other works that pose a danger of promoting or causing fires;

(7) prohibit or otherwise regulate the erection of cotton presses and sheds;

(8) prohibit or otherwise regulate the use of fireworks;

(9) prohibit, direct, or otherwise regulate the keeping and management of buildings within the municipality that are used to

store gunpowder or other combustible, explosive, or dangerous materials, and regulate the keeping and conveying of those materials;

(10) regulate the building of parapet or party walls;

(11) authorize the mayor or other municipal officers, including the officers of fire companies, to keep away from the vicinity of any fire all idle, disorderly, or suspicious persons, and to arrest and confine those persons;

(12) compel municipal officers and all other persons to aid in extinguishing fires, preserving property exposed to the danger of fire, and preventing theft; and

(13) adopt other rules for the prevention and extinguishment of fires as the governing body considers necessary.

(b) Subsection (a)(9) does not authorize a municipality to adopt any prohibition or other regulation in violation of Section 229.001.

(c) Subsection (a)(8) does not authorize a municipality to confiscate packaged, unopened fireworks.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(t), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(10), eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 957 (H.B. 1813), Sec. 1, eff. June 14, 2013.

Acts 2025, 89th Leg., R.S., Ch. 238 (S.B. 2284), Sec. 9, eff. September 1, 2025.

Sec. 342.004. FIRE DEPARTMENT. (a) The governing body of the municipality may organize a fire department consisting of fire companies and the chief and any assistant engineers. The governing body shall prescribe the powers and duties of the fire department and its officers.

(b) Each company may elect its own members and officers. A company may adopt a constitution and bylaws that are not inconsistent with the statutes and the municipal ordinances.

(c) The fire department engineers shall be chosen as determined by the department, subject to the approval of the governing body, which shall pass ordinances that it considers necessary for the welfare of the department. The mayor shall commission each elected

officer approved by the governing body.

(d) The governing body may obtain fire engines and other fire-protection equipment, control the use of the equipment, and provide fire stations to preserve the equipment. The fire department shall maintain the fire engines and other fire-protection equipment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.005. DESTRUCTION OF BUILDINGS; CLAIM. (a) If a building in the municipality is on fire, the chief or acting chief engineer of the fire department with the concurrence of the mayor may order the burning building, or any other building determined to be hazardous and likely to transmit the fire to additional buildings, to be destroyed.

(b) Except as provided by Subsection (c), the municipality and the officers that act under Subsection (a) are not liable for damages resulting from the destruction.

(c) Within six months after the date a building is destroyed under this section, a person who has an interest in the building may apply in writing to the governing body of the municipality to request the governing body to assess and pay the damages of the person. If the governing body and the claimant cannot agree on the terms of adjustment, they shall refer the application to three commissioners, one appointed by the claimant, one appointed by the governing body, and one appointed jointly by both parties. The commissioners must be qualified voters and owners of real property in the municipality. The commissioners shall swear to faithfully execute their duty to the best of their ability. They may subpoena and swear witnesses. They shall give all parties a fair and impartial hearing and shall give notice of the time and place of each meeting. They shall take into account the probabilities of the destruction of the building by fire if the municipality had not destroyed the building and the loss of any insurance on the property caused by the destruction. They may report that no damages should equitably be allowed to the claimant. If a report is made and confirmed for the appraisal of the damages, compliance with the terms of that report by the governing body constitutes full satisfaction of those damages.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITY

Sec. 342.011. FIRE DEPARTMENT. A home-rule municipality may provide for a fire department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.012. DESIGNATION OF FIRE LIMITS; REMOVAL OR DESTRUCTION OF STRUCTURES. (a) A home-rule municipality may establish fire limits and may prescribe the kind and character of structures and other improvements erected within those limits.

(b) The municipality may provide for the erection of fireproof buildings within certain limits and may condemn dangerous buildings or other structures, dilapidated buildings, or buildings considered to increase the hazard of fire. The municipality may provide for the manner of the removal or destruction of those buildings or structures.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.013. CONFISCATION OF CERTAIN FIREWORKS PROHIBITED; AFFIRMATIVE DEFENSE. (a) A home-rule municipality that regulates fireworks may not confiscate packaged, unopened fireworks.

(b) It is an affirmative defense to prosecution for possession of fireworks brought under a municipal ordinance that:

(1) the defendant was operating or was a passenger in a motor vehicle that was being operated in a public place; and

(2) the fireworks were not in the passenger area of the vehicle.

(c) For purposes of Subsection (b), the "passenger area" of a motor vehicle means the area of the vehicle designed for the seating of the operator and the passengers of the vehicle. The term does not include:

(1) a locked glove compartment or similar locked storage area;

(2) the trunk of a vehicle; or

(3) the area behind the last upright seat of a vehicle that does not have a trunk.

Added by Acts 2013, 83rd Leg., R.S., Ch. 957 (H.B. 1813), Sec. 2, eff.

June 14, 2013.

SUBCHAPTER C. MUTUAL FIRE-PROTECTION AGREEMENTS

Sec. 342.020. MUTUAL FIRE-PROTECTION AGREEMENTS IN BORDER MUNICIPALITIES. (a) A municipality in this state that is located on the border between this state and the Republic of Mexico may make a mutual fire-protection agreement with its corresponding border municipality in the Republic of Mexico.

(b) Any fire fighter from a border municipality in this state who responds to a call for fire-fighting assistance from the corresponding border municipality in the Republic of Mexico under the terms of an agreement authorized by this section is performing the fire fighter's official duty for the purposes of Article III, Section 51-d, of the Texas Constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(u), eff. Aug. 28, 1989.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 342.901. FIRE SUPPRESSION STANDARDS IN CERTAIN MUNICIPALITIES. (a) This section applies to a general law municipality that:

(1) has a population of less than 4,000;

(2) is located in a county that:

(A) has a population of more than 1.2 million; and

(B) is adjacent to a county with a population of more than 600,000; and

(3) is served by a district governed by Chapter 51, Water Code.

(b) Notwithstanding any other law, the governing body of a municipality may by ordinance establish water flow and water pressure standards sufficient to provide adequate pressure to fire suppression systems and require a district described by Subsection (a)(3) that provides water service in the municipality to take reasonable measures to comply with those standards.

(c) Before a municipality adopts an ordinance under this section, the municipality and the district described by Subsection (a)(3) that is subject to the proposed ordinance shall establish the

scope of and estimate the costs associated with any capital improvements necessary to comply with the proposed ordinance.

(d) A district described by Subsection (a)(3) may recover the costs associated with complying with an ordinance adopted under this section through a surcharge assessed only to customers served in the municipality to the extent that:

(1) complying with the ordinance results in additional capital improvement costs for the district; and

(2) the ordinance establishes water flow and water pressure standards inside municipal boundaries that are more stringent than water flow and water pressure standards required outside municipal boundaries.

(e) To the extent of a conflict between this section and any other law, this section controls.

Added by Acts 2013, 83rd Leg., R.S., Ch. 720 (H.B. 3813), Sec. 1, eff. June 14, 2013.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 176, eff. September 1, 2023.

CHAPTER 343. MUNICIPAL PROVISION OF SCHOOL CROSSING GUARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 343.001. DEFINITION. In this chapter, "school crossing guard" has the meaning assigned by Section 541.001, Transportation Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.02, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.224, eff. Sept. 1, 1997.

Sec. 343.002. DESIGNATION OF GOVERNMENTAL FUNCTION. The employment, training, equipping, and location of school crossing guards by a political subdivision is a governmental function.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.02, eff. Sept. 1, 1995.

SUBCHAPTER B. PROVISIONS APPLICABLE TO MUNICIPALITIES WITH A POPULATION OF MORE THAN 1.3 MILLION

Sec. 343.011. APPLICATION. This subchapter applies only to a municipality with a population of more than 1.3 million.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.02, eff. Sept. 1, 1995.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 178, eff. September 1, 2023.

Sec. 343.012. CONTRACT WITH SCHOOL DISTRICTS. (a) The municipality may contract with one or more school districts to provide school crossing guards.

(b) Under a contract, a school district may provide school crossing guard services to an area of the municipality that is not a part of the school district.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.02, eff. Sept. 1, 1995.

Sec. 343.013. DEDUCTIONS FROM CHILD SAFETY TRUST FUND. (a) After contracting with a school district, the municipality may deduct from a child safety trust fund established under Chapter 106 the administrative cost of contracting for school crossing guard services and distributing the funds to the school district.

(b) The administrative costs may not exceed 10 percent of the funds available for school crossing guard services.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.02, eff. Sept. 1, 1995.

Sec. 343.014. PROVISION OF SCHOOL CROSSING GUARDS. (a) The governing body of the municipality shall determine the number of school crossing guards needed by the municipality and shall provide for the use of school crossing guards to facilitate the safe crossing of streets in the municipality by children going to or leaving a public, parochial, or private elementary or secondary school.

(b) In making the determination of the need for school crossing guards, the municipality shall consider the recommendations of schools and traffic safety experts.

(c) The municipality shall equip school crossing guards that it employs or has under its jurisdiction with all necessary equipment.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 10.02, eff. Sept. 1, 1995.

CHAPTER 344. FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 344.001. SHORT TITLE. This chapter may be cited as the Fire Control, Prevention, and Emergency Medical Services District Act.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.002. DEFINITIONS. In this chapter:

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

(2) "Director" means a member of a board.

(3) "District" means a fire control, prevention, and emergency medical services district created under this chapter.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.003. LIABILITY OF STATE. The state is not obligated for the support, maintenance, or dissolution of a district created under this chapter.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

SUBCHAPTER B. CREATION OF DISTRICT AND TEMPORARY BOARD

Sec. 344.051. AUTHORITY OF MUNICIPALITY TO PROPOSE DISTRICT. (a) The governing body of a municipality with a population of not less than 25,000 nor more than 550,000, or a municipality with a population of more than 1.9 million, may propose the creation of a

fire control, prevention, and emergency medical services district under this chapter.

(a-1) The governing body of a municipality may propose the creation of a fire control, prevention, and emergency medical services district under this chapter if the municipality:

(1) has a population of 5,000 or more and less than 25,000; and

(2) is located in a county with a population of one million or more:

(A) in which all or part of a municipality with a population of one million or more is located; and

(B) that is adjacent to a county with a population of 2.5 million or more.

(a-2) The governing body of a municipality may propose the creation of a fire control, prevention, and emergency medical services district under this chapter if the municipality is located in the extraterritorial jurisdiction of another municipality that has a population of 200,000 or more, both of which are located in a county with a population of less than 300,000 that is located on the international border.

(a-3) The governing body of a municipality may propose the creation of a fire control, prevention, and emergency medical services district under this chapter if the municipality:

(1) has a population of 19,000 or more and less than 60,000; and

(2) contains a branch campus of North Central Texas College.

(b) The proposed district may include all or any part of the municipality.

(c) Except as provided by Subsection (f), a district may be created inside the boundaries of an emergency services district operating under Chapter 775, Health and Safety Code, only if the governing body of the emergency services district gives its written consent by order or resolution not later than the 60th day after the date the governing body receives a request for its consent.

(d) If the governing body of the emergency services district consents to the inclusion of territory inside its geographic boundaries, the territory may be included in the district in the same manner as other territory is included under this chapter.

(e) The consent of the governing body of the emergency services

district to include territory in the district and to initiate proceedings to create a district as prescribed by this chapter expires six months after the date on which the consent is given.

(f) Subsection (c) does not apply if:

(1) on the effective date of this chapter, the municipality is providing fire suppression and prevention services and emergency medical services; or

(2) the fire control, prevention, and emergency medical services plan of the proposed district proposes emergency services that, on the effective date of this chapter, were not provided by any rural fire prevention district or emergency services district inside the boundaries of the municipality.

(g) If the voters in a municipality with a population of more than 1.9 million create a fire control, prevention, and emergency medical services district under this chapter, the fire department shall comply with the minimum standards established by the National Fire Protection Association or its successor in function regarding fire protection personnel operating at emergency incidents.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1204, Sec. 2.004, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 639 (S.B. 917), Sec. 14, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 852 (H.B. 339), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 898 (S.B. 1453), Sec. 1, eff. June 18, 2015.

Acts 2019, 86th Leg., R.S., Ch. 571 (S.B. 235), Sec. 1, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 179, eff. September 1, 2023.

Sec. 344.052. TEMPORARY BOARD. (a) Not later than the 60th day after the date the governing body proposes to create a district under this chapter, the governing body shall appoint seven persons to serve as temporary directors of the district. The temporary directors must reside in the proposed district.

(b) Not later than the 75th day after the date the governing body proposes to create the district, the temporary board shall conduct a meeting to organize the board. The temporary directors shall elect one of its members as presiding officer of the board at that meeting.

(c) A temporary director other than the presiding officer may designate another person to serve in the director's place.

(d) The governing body shall fill a vacancy in the office of a temporary director in the same manner that it originally filled the vacant position.

(e) The term "governing body" in this section means the mayor if the municipality creating the district has a population of 1.9 million or more.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.053. ELECTION REQUIRED. A proposed district may be created and a district tax may be authorized only if the creation and the tax are approved by a majority of the qualified voters of the proposed district voting at an election called and held for that purpose.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.054. CONFIRMATION ELECTION ORDER. (a) The temporary board may call and hold a confirmation election only after the board adopts plans under Section 344.061.

(b) An order calling an election under Subsection (a) must state:

(1) the nature of the election, including the proposition that is to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open;

(4) the location of the polling places;

(5) a summary of the proposed district's budget plan and fire control, prevention, and emergency medical services plan; and

(6) the proposed rate of the sales and use tax for the district.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.055. SALES AND USE TAX. (a) A municipality that creates a district shall adopt a sales and use tax under Section 321.106, Tax Code, for financing the operation of the district. The proposed rate for the district sales and use tax imposed under Subchapter B, Chapter 321, Tax Code, may be only:

(1) one-eighth of one percent;

(2) one-fourth of one percent;

(3) three-eighths of one percent; or

(4) one-half of one percent.

(b) A sales and use tax adopted under this chapter may be charged in addition to any other sales and use tax authorized by law, and is included in computing a combined sales and use tax rate for purposes of any limitation provided by law on the maximum combined sales and use tax rate of political subdivisions.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.056. NOTICE OF ELECTION. In addition to the notice required by Section 4.003(c), Election Code, the temporary directors of a proposed district shall give notice of an election to create a district by publishing a substantial copy of the election order in a newspaper with general circulation in the proposed district once a week for two consecutive weeks. The first publication must appear before the 35th day before the date set for the election.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.057. ELECTION DATE. The election shall be held on the next uniform election date authorized by Section 41.001(a), Election Code, after the date on which the election is ordered that affords sufficient time for election procedures to be carried out.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.058. BALLOT PROPOSITION. The ballot for an election

to create a district shall be printed to permit voting for or against the proposition: "The creation of the _____ (name of the municipality proposing to create the district) Fire Control, Prevention, and Emergency Medical Services District dedicated to fire safety and emergency medical services programs and the adoption of a proposed local sales and use tax at a rate of _____ (rate specified in the election order)."

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.059. CANVASSING RETURNS. (a) Not earlier than the second day and not later than the 13th day after the date of the election, the temporary board shall meet and canvass the returns of the election.

(b) If a majority of the votes cast in the election favor the creation of the district, the temporary board shall issue an order declaring the district created.

(c) If less than a majority of the votes cast in the election favor the creation of the district, the temporary board may order another election on the matter not earlier than the first anniversary of the date of the preceding election.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.060. DISSOLUTION OF TEMPORARY BOARD. If a district has not been created under this chapter before the fifth anniversary of the date a district is first proposed by the governing body or mayor, as appropriate, under Section 344.051:

(1) the temporary board is dissolved on that date; and

(2) the proposed district may not be created under this chapter.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.061. FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES PLAN AND BUDGET PLAN. (a) The temporary board shall develop and adopt a two-year fire control, prevention, and emergency medical services plan and a two-year budget plan. The fire control,

prevention, and emergency medical services plan must include:

(1) a detailed list of the fire control, prevention, and emergency medical services strategies to be supported by the district; and

(2) the method of evaluating each year the effectiveness and efficiency of individual fire control, prevention, and emergency medical services strategies.

(b) The budget plan must include:

(1) the amount of money budgeted by the district for each fire control, prevention, and emergency medical services strategy;

(2) the amount of money budgeted by the district and the percentage of the total budget of the district for administration, with individual amounts showing the cost of the administration that would be conducted by the district and the cost of administration that would be conducted by private or public entities;

(3) the estimated amount of money available to the district from all sources during the subsequent year;

(4) the account balances expected at the end of the years for which the budget is prepared; and

(5) the estimated tax rate that will be required to support the budget.

(c) Plans under this section must be adopted in the same manner as provided for adoption of a proposed annual budget under Section 344.204.

(d) The temporary board shall coordinate its efforts in developing its plans under this section with appropriate local officials and entities.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.062. FINANCING CREATION OF DISTRICT. (a) A municipality creating a district shall pay the entire cost of creating the district.

(b) If a district is created, the district shall reimburse the municipality for the actual expenses the municipality incurred in the creation of the district.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

SUBCHAPTER C. ADMINISTRATION

Sec. 344.101. BOARD OF DIRECTORS. (a) Except as provided by Subsections (e) and (f), a district is governed by a board of seven directors appointed in the same manner as provided by Section 344.052(a) for the appointment of temporary directors.

(b) Initial appointees under this section shall draw lots to determine their terms so that:

(1) three directors serve terms that expire on September 1 of the first year following creation of the district; and

(2) four directors serve terms that expire on September 1 of the second year following creation of the district.

(c) Directors serve staggered two-year terms.

(d) A vacancy in the office of director shall be filled for the unexpired term in the same manner that the vacant position was originally filled.

(e) The governing body of a municipality by resolution may appoint the governing body's membership as the board of directors of the district, if the appointment is approved by the voters in a creation election or continuation referendum under this chapter. A member of a governing body appointed under this section as an ex officio director serves a term concurrent with the member's term as a member of the governing body.

(f) In a district for which the governing body of the municipality does not serve as the district's board of directors, the governing body may create a board of directors for which one director is appointed by each member of the governing body to serve at the pleasure of that member for a term not to exceed two years and that expires when the member of the governing body that appointed the director leaves office.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.102. PERFORMANCE BOND. (a) Before assuming the duties of the office, each director or officer must execute a bond for $5,000 payable to the district, conditioned on the faithful performance of the person's duties as director or officer.

(b) The bond shall be kept in the permanent records of the district.

(c) The board may pay for the bonds of directors or officers

with district funds.

(d) The board and the district may issue and sell bonds conditioned on the faithful performance of a person's duties as a director as provided by this section.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.103. OFFICERS. (a) The board shall elect from among its members a president and vice president.

(b) The board shall appoint a secretary. The secretary may be a director.

(c) The person who performs the duties of auditor for the municipality shall serve as treasurer of the district.

(d) Each officer of the board serves for a term of one year.

(e) A vacancy in a board office shall be filled by the board for the unexpired term.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.104. COMPENSATION. A director or officer serves without compensation, but a director or officer may be reimbursed for actual expenses incurred in the performance of official duties. Those expenses must be reported in the district's minute book or other district record and must be approved by the board.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.105. VOTING REQUIREMENT. A concurrence of a majority of the members of the board is necessary in matters relating to the business of a district. A two-thirds majority vote of the board is required to reject any application for funding available under this chapter.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.106. CONTRACT FOR ADMINISTRATIVE ASSISTANCE. The board may contract with a public agency or private vendor to assist

the board in the administration or management of the district or to assist the board in the review of applications for funding available under this chapter.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 344.151. FINANCING DISTRICT PROGRAMS. (a) The district may finance all costs of a fire control, prevention, and emergency medical services district program, including costs for personnel, administration, expansion, enhancement, and capital expenditures.

(b) The program may include:

(1) fire apparatus and equipment;

(2) a bomb disposal unit and related equipment;

(3) compensation of fire protection and prevention personnel for specialized training regarding:

(A) arson;

(B) bomb disposal;

(C) hazardous materials;

(D) technical rescue;

(E) paramedic certification; and

(F) any other specialized training under the program;

(4) funding for turn-out gear, self-contained breathing apparatus, and protective uniforms or other firefighter safety equipment;

(5) additional compensation for municipal fire-fighting personnel, including overtime compensation for unforeseen staffing needs; and

(6) funding for the construction and maintenance of fire stations, training facilities, or the equipment needed for those stations or facilities.

(c) The program may include an enhanced emergency communications center or other emergency communications programs and equipment, including:

(1) emergency medical dispatch training;

(2) additional fire and emergency medical service dispatchers;

(3) uniformed fire deployment and communications officers;

(4) real-time weather information; and

(5) computer databases and systems maintenance personnel for hazardous materials responses.

(d) The program may include a public training program, including:

(1) a juvenile fire starter program;

(2) an urban survival program, including school programs for fire safety, gun safety, and safety with strangers;

(3) a fire prevention program;

(4) a fire education program;

(5) a hazardous materials education program;

(6) a psychological intervention program; and

(7) a citizen's ride-along program or home inspection program.

(e) The program may include public preventive health programs, including:

(1) juvenile inoculations;

(2) weekend health days;

(3) first aid and cardiopulmonary resuscitation training;

(4) injury prevention; and

(5) drug and alcohol awareness.

(f) The program may include response training programs, equipment, facilities, and instructors, including:

(1) a regional training center for fire, rescue, hazardous materials, and emergency medical services;

(2) staff personnel to support the center;

(3) equipment and apparatus to support the center;

(4) computer-aided continuing education training conducted in-station; and

(5) training regarding hazardous material storage and response.

(g) The program may include computers and other systems to support information management systems to:

(1) maintain occupancy information;

(2) track incident analyses;

(3) track incident reports;

(4) track internal communications and reporting;

(5) maintain inventory; and

(6) serve other information management needs.

(h) The program may include capital items needed to improve emergency response and increase service efficiency, including

equipment, apparatus, vehicles, and training material or equipment.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.152. COORDINATION; EVALUATION; GRANTS. (a) The district shall coordinate its efforts with local agencies in developing its fire control, prevention, and emergency medical services program.

(b) The district shall conduct an annual evaluation program to study the impact, efficiency, and effectiveness of new or expanded fire control, prevention, and emergency medical services programs.

(c) The board may seek the assistance of the Office of State-Federal Relations in identifying and applying for federal grants for fire control, prevention, and emergency medical services programs.

(d) The district may apply for and receive grants for fire control, prevention, and emergency medical services programs from a state or federal agency.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.153. GENERAL BOARD POWER OVER FUNDS. The board shall manage, control, and administer the district finances except as provided by Section 344.205.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.154. USE OF REVENUE. The board may spend revenue derived from the sales and use tax distributed under Section 321.106, Tax Code, only for a purpose authorized by Section 344.151.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.155. RULES AND PROCEDURES. (a) A board may adopt rules governing programs financed by the district and the functions of district staff.

(b) The board may prescribe accounting and control procedures for the district.

(c) The board is subject to Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.156. PURCHASING. (a) Except as provided by Subsection (b), the board may prescribe the method of making purchases and expenditures by and for the district.

(b) To the extent competitive bidding procedures in Title 8 apply, the board may not enter into a purchasing contract for more than $15,000 unless the board complies with Chapter 252.

(c) If the municipality that created the district has a purchasing agent authorized by law, that agent shall serve as purchasing agent for the district.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.157. PROPERTY TO BE USED IN ADMINISTRATION. The board may lease or acquire in another manner facilities, equipment, or other property for the sole purpose of administering the district.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.158. REIMBURSEMENT FOR SERVICES. (a) A county or municipality located outside the boundaries of a district on the district's request shall reimburse the district for the district's cost of including a resident of that county or municipality who is not a resident of that district in a district program.

(b) On behalf of the district, the board may contract with a municipal or county government or with the state or federal government for the municipal, county, state, or federal government to reimburse the district for including a person in a district program.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.159. SERVICE CONTRACTS. The board may contract with the following entities to furnish the staff, facilities, equipment, programs, or services the board considers necessary for the effective

operation of the district:

(1) a municipality, county, special district, or other political subdivision of the state;

(2) a state or federal agency;

(3) an individual; or

(4) a private person.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.160. DONATIONS, GIFTS, AND ENDOWMENTS. On behalf of the district, the board or the temporary board may accept a donation, gift, or endowment. The district may hold a donation, gift, or endowment in trust for any purpose and under any direction, limitation, or other provision prescribed in writing by the donor that is consistent with this chapter and the proper management of the district.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.161. AUTHORITY TO SUE AND BE SUED. The board may sue and be sued in the name of the district.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

SUBCHAPTER D-1. ADDITION OF TERRITORY TO DISTRICT

Sec. 344.181. ELECTION REQUIRED. The municipality that created a district may add all or part of the territory in the municipality's extraterritorial jurisdiction to the district and the district may impose a tax in that territory only if the addition of the territory and the imposition of the tax are approved by a majority of the qualified voters of the territory to be added voting at an election held for that purpose.

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 1, eff. June 19, 2015.

Sec. 344.182. CONFIRMATION ELECTION ORDER. (a) The board may

not call and hold a confirmation election until the board adopts a budget plan and a fire control, prevention, and emergency medical services plan under Section 344.061 that include the proposed addition of territory.

(b) An order calling an election under Subsection (a) must state:

(1) the nature of the election, including the proposition that is to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open;

(4) the location of the polling places;

(5) a summary of the district's budget plan and fire control, prevention, and emergency medical services plan that includes the proposed addition of territory; and

(6) the proposed rate of the sales and use tax to be imposed in the territory to be added.

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 1, eff. June 19, 2015.

Sec. 344.183. NOTICE OF ELECTION. In addition to the notice required by Section 4.003(c), Election Code, the board shall give notice of an election to add territory to the district by publishing a substantial copy of the election order in a newspaper with general circulation in the territory to be added once a week for two consecutive weeks. The first publication must appear before the 35th day before the date set for the election.

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 1, eff. June 19, 2015.

Sec. 344.184. BALLOT PROPOSITION. The ballot for an election to add territory to a district shall be printed to permit voting for or against the proposition: "The addition of _____ (description of territory to be added) to the _____ (name of the municipality that created the district) Fire Control, Prevention, and Emergency Medical Services District dedicated to fire safety and emergency medical services programs and the adoption of a proposed local sales and use tax in the territory to be added at a rate of _____ (rate specified

in the election order)."

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 1, eff. June 19, 2015.

Sec. 344.185. ELECTION RESULTS. (a) If a majority of the votes cast in the election favor the addition of the territory to the district, the board shall issue an order declaring the territory added to the boundaries of the district.

(b) If a majority of the votes cast in the election do not favor the addition of the territory to the district, the board may not order another election on the matter before the first anniversary of the date of the most recent election.

(c) The provisions of Section 321.102, Tax Code, governing the application of a municipal sales and use tax in the event of a change in the boundaries of a municipality apply to the application of a tax imposed under this chapter to territory added under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 1, eff. June 19, 2015.

SUBCHAPTER E. DISTRICT FINANCES

Sec. 344.201. FISCAL YEAR. (a) The board shall establish the fiscal year for the district, and the district shall operate on the basis of that year.

(b) The fiscal year may not be changed more than once in a 24-month period.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.202. AUDITS AND DISTRICT RECORDS. (a) The board shall have an annual audit made of the financial condition of the district by an independent auditor.

(b) The annual audit and other district records shall be open to inspection during regular business hours at the principal office of the district.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.203. ANNUAL BUDGET PROPOSAL. (a) The board shall propose an annual budget. The board shall consider the applications for program funding in preparing the proposed budget.

(b) The proposed budget must contain a complete financial statement, including a statement of:

(1) the outstanding obligations of the district;

(2) the amount of cash on hand to the credit of each fund of the district;

(3) the amount of money received by the district from all sources during the previous year;

(4) the estimated amount of money available to the district from all sources during the current fiscal year;

(5) the amount of money needed to fund programs approved for funding by the board;

(6) the amount of money requested for programs that were not approved for funding by the board;

(7) the tax rate for the next fiscal year;

(8) the amount of the balances expected at the end of the year in which the budget is being prepared; and

(9) the estimated amount of revenues and balances available to cover the proposed budget.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.204. ADOPTION OF BUDGET. (a) Not later than the 100th day before the date each fiscal year begins, the board shall hold a public hearing to consider the proposed annual budget.

(b) The board shall publish notice of the hearing in a newspaper with general circulation in the district not later than the 10th day before the date of the hearing.

(c) A resident of the district is entitled to participate in the hearing.

(d) Not later than the 80th day before the date each fiscal year begins, the board shall adopt a budget. The board may make any changes in the proposed budget that the interests of the taxpayers demand.

(e) Not later than the 10th day after the date the budget is

adopted, the board shall submit the budget to the governing body of the municipality that created the district.

(f) The board by rule may adopt alternative procedures for adopting a budget that differ from the procedures outlined in this subchapter. The board must hold at least one public hearing related to the alternative procedures before their adoption.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.205. APPROVAL OF BUDGET. (a) Not later than the 45th day before the date each fiscal year begins, the governing body of the municipality that created the district shall hold a public hearing to consider the budget adopted by the board and submitted to the governing body.

(b) The governing body must publish notice of the hearing in a newspaper with general circulation in the district not later than the 10th day before the date of the hearing.

(c) A resident of the district is entitled to participate in the hearing.

(d) Not later than the 30th day before the date the fiscal year begins, the governing body shall approve or reject the budget submitted by the board. The governing body may not amend the budget.

(e) If the governing body rejects the budget submitted by the board, the governing body and the board shall meet and together amend and approve the budget before the beginning of the fiscal year.

(f) The budget may be amended after the beginning of the fiscal year on approval by the board and the governing body.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.206. LIMITATIONS ON EXPENDITURES AND INVESTMENTS. (a) The district may spend money only for an expense included in the annual budget or an amendment to the budget.

(b) A district may not incur a debt payable from revenues of the district other than the revenues on hand or to be on hand in the current or immediately following fiscal year of the district.

(c) The board may not invest district money in funds or securities other than those specified by Chapter 2256, Government Code.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.207. ACCOUNT OF DISBURSEMENTS OF DISTRICT. Not later than the 60th day after the last day of each fiscal year, an administrator shall prepare for the board a sworn statement of the amount of money that belongs to the district and an account of the disbursements of that money.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.208. DEPOSIT OF MONEY. (a) The board shall deposit district money in a special account in the treasury of the municipality that created the district.

(b) District money, other than that invested as provided by Section 344.206(c), shall be deposited as received in the treasury of the municipality and must remain on deposit.

(c) The board shall reimburse the municipality for any costs, other than personnel costs, the municipality incurs for performing the duties under this section.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.209. APPLICATIONS FOR PROGRAM FUNDING. (a) An officer of the municipality that created the district or the head of a department of that municipality may, with the consent of the governing body of the municipality, apply to the board for funding of a program described by Section 344.151.

(b) The officer must apply under this section not later than the 140th day before the date the fiscal year begins, unless the board by rule has adopted an exception.

(c) The board by rule may adopt application procedures.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.210. BONDS PROHIBITED. The board may not issue or sell general obligation bonds, revenue bonds, or refunding bonds.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

SUBCHAPTER F. REFERENDUM ON CONTINUATION OR DISSOLUTION OF DISTRICT

Sec. 344.251. REFERENDUM AUTHORIZED. (a) The board may call and hold a referendum election on the question of whether to:

(1) continue the district; or

(2) dissolve the district.

(b) A board may order a referendum election on its own motion.

(c) The board shall order a referendum election:

(1) on receipt of a petition that requests continuation or dissolution of the district and complies with the requirements of Sections 344.252-344.256; or

(2) if the governing body of the municipality that created the district, after notice and a public hearing on the matter, by resolution requests a referendum on continuation or dissolution.

(d) The board may not hold a referendum election under this subchapter before the fourth anniversary of the date the district was created or before the third anniversary of the date of the last continuation or dissolution referendum election.

(e) For a continuation referendum election, the ballot shall be printed to permit voting for or against the proposition: "Whether the _____ (name of the municipality that created the district) Fire Control, Prevention, and Emergency Medical Services District should be continued and whether the fire control, prevention, and emergency medical services district sales and use tax should be continued."

(f) For a dissolution referendum, the ballot shall be printed to permit voting for or against the proposition: "Whether the _____ (name of the municipality that created the district) Fire Control, Prevention, and Emergency Medical Services District should be dissolved and whether the fire control, prevention, and emergency medical services district sales and use tax should be abolished."

(g) The governing body of a municipality that creates a district under this chapter may specify the number of years for which the district should be continued. The board or the governing body of a municipality may continue a district for 5, 10, 15, or 20 years. For a continuation referendum election under this subsection, the ballot shall be printed to permit voting for or against the

proposition: "Whether the _____ (name of the municipality that created the district) Fire Control, Prevention, and Emergency Medical Services District should be continued for _____ years and whether the fire control, prevention, and emergency medical services district sales and use tax should be continued for _____ years."

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 662 (H.B. 2228), Sec. 1, eff. June 19, 2009.

Sec. 344.252. APPLICATION FOR PETITION. (a) On written application of 10 or more registered voters of the district, the clerk of the municipality that created the district shall issue to the applicants a petition to be circulated among registered voters for their signatures.

(b) An application for a petition to continue the district must contain:

(1) the heading: "Application for a Petition for a Local Option Referendum to Continue the Fire Control, Prevention, and Emergency Medical Services District and to Continue the Fire Control, Prevention, and Emergency Medical Services District Sales and Use Tax";

(2) the statement: "Whether the _____ (name of the municipality that created the district) Fire Control, Prevention, and Emergency Medical Services District should be continued and whether the fire control, prevention, and emergency medical services district sales and use tax should be continued";

(3) immediately above the signatures of the applicants, the statement: "It is the purpose and intent of the applicants whose signatures appear below that the fire control, prevention, and emergency medical services district be continued and that the fire control, prevention, and emergency medical services district sales and use tax in _____ (name of the municipality that created the district) be continued"; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

(c) An application for a petition to dissolve the district must contain:

(1) the heading: "Application for a Petition for a Local Option Referendum to Dissolve the Fire Control, Prevention, and Emergency Medical Services District and to Abolish the Fire Control, Prevention, and Emergency Medical Services District Sales and Use Tax";

(2) the statement: "Whether the _____ (name of the municipality that created the district) Fire Control, Prevention, and Emergency Medical Services District should be dissolved and whether the fire control, prevention, and emergency medical services district sales and use tax should be abolished";

(3) immediately above the signatures of the applicants, the statement: "It is the purpose and intent of the applicants whose signatures appear below that the fire control, prevention, and emergency medical services district be dissolved and that the fire control, prevention, and emergency medical services district sales and use tax in _____ (name of the municipality that created the district) be abolished"; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.253. PETITION. (a) A petition for a referendum to continue a district must contain:

(1) the heading: "Petition for a Local Option Referendum to Continue the _____ (name of the municipality that created the district) Fire Control, Prevention, and Emergency Medical Services District and to Continue the Fire Control, Prevention, and Emergency Medical Services District Sales and Use Tax";

(2) a statement of the issue to be voted on in the same words used in the application;

(3) immediately above the signatures of the petitioners, the statement: "It is the purpose and intent of the petitioners whose signatures appear below that the fire control, prevention, and emergency medical services district be continued and that the fire control, prevention, and emergency medical services district sales and use tax in _____ (name of the municipality that created the district) be continued";

(4) lines and spaces for the names, signatures, residence

addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the clerk of the municipality on each page.

(b) A petition for a referendum to dissolve a district must contain:

(1) the heading: "Petition for a Local Option Referendum to Dissolve the _____ (name of the municipality that created the district) Fire Control, Prevention, and Emergency Medical Services District and to Abolish the Fire Control, Prevention, and Emergency Medical Services District Sales and Use Tax";

(2) a statement of the issue to be voted on in the same words used in the application;

(3) immediately above the signatures of the petitioners, the statement: "It is the purpose and intent of the petitioners whose signatures appear below that the fire control, prevention, and emergency medical services district be dissolved and that the fire control, prevention, and emergency medical services district sales and use tax in _____ (name of the municipality that created the district) be abolished";

(4) lines and spaces for the names, signatures, residence addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the clerk of the municipality on each page.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.254. COPIES OF APPLICATION AND PETITION. The clerk or secretary of the municipality shall keep an application and a copy of the petition in the files of the clerk's or secretary's office. The clerk shall issue to the applicants as many copies as they request.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.255. FILING OF PETITION. To form the basis for the ordering of a referendum, the petition must:

(1) be filed with the clerk or secretary of the municipality not later than the 60th day after the date of its

issuance; and

(2) contain at least a number of signatures of registered voters of the municipality equal to five percent of the number of votes cast in the municipality for all candidates for governor in the most recent gubernatorial general election.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.256. REVIEW BY CLERK OR SECRETARY. (a) The clerk or secretary of the municipality shall, on the request of any person, check each name on a petition to determine whether the signer is a registered voter of the district. A person requesting verification by the clerk or secretary of the municipality shall pay the clerk or secretary a sum equal to 20 cents for each name on the petition before the verification begins.

(b) The clerk or secretary of the municipality may not count a signature if the clerk or secretary has a reason to believe that:

(1) it is not the actual signature of the purported signer;

(2) the voter registration certificate number is not correct;

(3) it is a duplication either of a name or of handwriting used in any other signature on the petition;

(4) the residence address of the signer is not correct; or

(5) the name of the voter is not signed exactly as it appears on the official copy of the current list of registered voters for the voting year in which the petition is issued.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.257. CERTIFICATION. Not later than the 40th day after the date a petition is filed, excluding Saturdays, Sundays, and legal holidays, the clerk or secretary of the municipality shall certify to the board the number of registered voters signing the petition.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.258. ELECTION ORDER. (a) The board shall record on its minutes the date the petition is filed and the date it is

certified by the clerk or secretary of the municipality.

(b) If the petition contains the required number of signatures and is in proper order, the board shall, at its next regular session after the certification by the clerk or secretary of the municipality, order a referendum election to be held at the regular polling place in each election precinct in the municipality on the next uniform election date authorized by Section 41.001(a), Election Code, that occurs at least 20 days after the date of the order.

(c) The board shall state in the order the proposition to be voted on in the referendum election. The order is prima facie evidence of compliance with all provisions necessary to give it validity.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.259. APPLICABILITY OF ELECTION CODE. A referendum election authorized by this subchapter shall be held and the returns shall be prepared and canvassed in conformity with the Election Code.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

Sec. 344.260. RESULTS OF REFERENDUM. (a) If less than a majority of the votes cast in a continuation referendum election are for the continuation of a district or if a majority of the votes cast in a dissolution referendum are for dissolution of the district:

(1) the board shall certify that fact to the secretary of state not later than the 10th day after the date of the canvass of the returns; and

(2) the district is dissolved and ceases to operate as provided by Section 344.301.

(b) If a majority of the votes cast in a continuation referendum election are for the continuation of the district or if less than a majority of the votes cast in a dissolution referendum election are for dissolution of the district, another referendum may not be held except as authorized by Section 344.251.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1190 (H.B. 4075), Sec. 1, eff.

September 1, 2019.

Sec. 344.261. ELECTION CONTEST. Not later than the 30th day after the date the result of a referendum is declared, any qualified voter of the district may contest the election by filing a petition in a district court located in the district.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

SUBCHAPTER G. DISTRICT DISSOLUTION

Sec. 344.301. TIME FOR DISSOLUTION OF DISTRICT. (a) A district is dissolved on the first uniform election date that occurs after the fifth anniversary of the date the municipality began to impose taxes for district purposes if the district has not held a continuation or dissolution referendum.

(b) The district is dissolved on the first uniform election date that occurs after the fifth anniversary of the date of the most recent continuation or dissolution referendum.

(c) Subsection (b) does not apply to a district that is continued under Section 344.251(g), and that district is dissolved on the first uniform election date that occurs after the end of the period for which it was continued.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1190 (H.B. 4075), Sec. 2, eff. September 1, 2019.

Sec. 344.302. DISSOLUTION OF DISTRICT. (a) On the date that the district is dissolved, the district shall convey or transfer, as provided by Subsection (h):

(1) title to land, buildings, real and tangible improvements, and equipment owned by the district;

(2) operating money and reserves for operating expenses and money that has been budgeted by the district for the remainder of the fiscal year in which the district is dissolved to support fire control, prevention, and emergency medical services activities and programs for residents of the municipality that created the district;

(3) taxes imposed for the district during the current year for fire control, prevention, and emergency medical services purposes;

(4) each fund established for payment of indebtedness assumed by the district; and

(5) any money accumulated in an employee retirement fund.

(b) After the date the district is dissolved, taxes may not be imposed for district purposes or for providing fire control, prevention, and emergency medical services activities and programs for the residents of the district.

(c) If on the date that the district is dissolved the district has outstanding short-term or long-term liabilities, the board shall, not later than the 30th day after the date of the dissolution, adopt a resolution certifying each outstanding short-term and long-term liability. The municipality that created the district shall assume the outstanding short-term and long-term liabilities. The municipality shall collect the sales and use tax under Chapter 321, Tax Code, for the remainder of the calendar year and may by resolution of its governing body continue to collect the tax for an additional calendar year if the revenue from the tax is needed to retire liabilities of the district that were assumed by the municipality. The governing body shall notify the comptroller of this continuation not later than the 60th day before the date the tax would otherwise expire. A tax collected after the liabilities have been retired shall be transferred or conveyed as provided by Subsection (a).

(d) The district and the board may continue to operate for a period not to exceed two months after carrying out the responsibilities required by Subsections (a) and (c). The board and the district are continued for the purpose of satisfying these responsibilities.

(e) If the board and the district are continued under Subsection (d), the board and district are dissolved entirely on the first day of the month following the month in which the board issues an order certifying to the secretary of state that the responsibilities of Subsections (a) and (c) are satisfied.

(f) A district or board that continues to operate under Subsection (d) may not incur any new liabilities without the approval of the governing body of the municipality that created the district. Not later than the 60th day after the date of the dissolution

referendum, the governing body shall review the outstanding liabilities of the district and set a specific date by which the municipality must retire the district's outstanding liabilities.

(g) On the date that the district is dissolved, programs funded by the district shall immediately terminate and personnel paid from district funds, except personnel required to retire the responsibilities of the district, are terminated.

(h) The board shall convey or transfer the value of the items described by Subsection (a) to the municipality that created the district.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 1, eff. June 1, 2001.

SUBTITLE B. COUNTY PUBLIC SAFETY
CHAPTER 351. COUNTY JAILS AND LAW ENFORCEMENT
SUBCHAPTER A. COUNTY JAIL FACILITIES

Sec. 351.001. DUTY TO PROVIDE JAILS; LOCATION. (a) The commissioners court of a county shall provide safe and suitable jails for the county.

(b) The jails must be located at the county seat unless the county has only one jail, in which case the jail may be located anywhere in the county at the discretion of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 64(e), eff. Aug. 28, 1989.

Sec. 351.002. JAIL STANDARDS. The jail standards prescribed by this subchapter are minimum standards for county jails. Each county jail must comply with the minimum standards and the rules and procedures of the Commission on Jail Standards.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.003. EXEMPTION. (a) A county with a population not large enough to justify building a new county jail or remodeling an existing county jail in order to comply with the standards in this subchapter is exempt from this subchapter if the commissioners court contracts with another county to incarcerate its prisoners.

(b) The county must contract with the nearest county whose county jail meets the standards in this subchapter.

(c) The county shall pay to the other county a daily per capita rate equal to the cost of maintaining its prisoners in the county jail or a daily rate on which the counties agree.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.0035. TEMPORARY HOUSING. (a) On request of the sheriff and the commissioners court of a county, the Commission on Jail Standards shall authorize a county to house a prisoner in a tent or other facility that is not a county jail.

(b) The Commission on Jail Standards shall adopt rules that govern the temporary housing of prisoners, including a specific requirement for:

(1) the classification and separation of prisoners;

(2) the supervision of prisoners;

(3) safety, sanitation, and health;

(4) the structure and maintenance of the facility;

(5) the provision of bunks or sleeping areas for prisoners or other furnishings for the facility;

(6) the space and capacity in the facility; and

(7) the enforcement of a rule the commission adopts under this subsection.

(c) A rule adopted under Subsection (b) must be consistent with the jail standards imposed by or adopted under other provisions of this subchapter unless the Commission on Jail Standards determines compliance is not practicable or reasonable.

Added by Acts 1993, 73rd Leg., ch. 145, Sec. 1, eff. May 15, 1993.

Sec. 351.0036. HOUSING OF CORRECTIONAL PROGRAM PARTICIPANTS. (a) Notwithstanding the requirements of Section 351.0035, the Commission on Jail Standards is hereby authorized to adopt rules governing the temporary housing of prisoners in connection with specific correctional programs which include work camps, wilderness camps, forestry camps, or boot camps.

Added by Acts 1993, 73rd Leg., ch. 145, Sec. 2, eff. May 15, 1993.

Sec. 351.004. STRUCTURAL AND MAINTENANCE REQUIREMENTS. A county jail must be:

(1) structurally sound;

(2) fire resistant;

(3) properly ventilated, heated, and lighted; and

(4) kept in good repair.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.007. SPACE REQUIREMENTS. (a) A county jail cell designed for one person only must have a clear floor area of 40 square feet or more.

(b) Any other housing area or day room in a county jail must have a clear floor area of 18 square feet or more for each prisoner to be confined in the area or room.

(c) The ceiling height above the finished floor in a cell, compartment, dormitory, or day room in a county jail in which prisoners are confined must be eight feet or more.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 952, Sec. 1, eff. Sept. 1, 1999.

Sec. 351.008. ACCESS TO DAY ROOM. A cell, compartment, or dormitory used in a county jail for sleeping purposes and designed to accommodate three or more prisoners must be accessible to a day room to which the prisoners may be given access during the day.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.009. SAFETY VESTIBULE. (a) To provide safety to officers and security, entrance to and exit from a cell block or a group of cells or compartments used to confine three or more prisoners in a county jail must be through a safety vestibule.

(b) A safety vestibule must have one or more interior doors in addition to the main outside entrance door to the cell block or group of cells or compartments. All the interior doors must be designed to

be locked, unlocked, opened, and closed by a means located outside the cell block or group of cells or compartments.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.010. SANITATION AND HEALTH REQUIREMENTS. A county jail must be:

(1) provided with safe water in ample quantity;

(2) provided with sewage disposal facilities in accordance with good sanitation standards;

(3) provided with food prepared and served in a palatable and sanitary manner according to good dietary practices and of sufficient quality to maintain good health; and

(4) maintained in a clean and sanitary condition in accordance with standards of sanitation and health.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.011. FURNISHINGS OF CELLS, COMPARTMENTS, AND DORMITORIES. (a) A county jail cell designed for one prisoner only must have a toilet, a combination sink and drinking fountain, a table, and a seat.

(b) A housing area designed for three or more prisoners must have one toilet and one combination sink and drinking fountain for every eight prisoners to be confined in the area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 952, Sec. 2, eff. Sept. 1, 1999.

Sec. 351.012. FURNISHINGS OF DAY ROOMS. (a) A day room designed in a county jail for three or more prisoners must have:

(1) for every eight prisoners to be confined in the room, one toilet and one combination sink and drinking fountain; and

(2) for every 12 prisoners to be confined in the room, one shower.

(b) A day room must be suitably furnished.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1999, 76th Leg., ch. 952, Sec. 3, eff. Sept. 1, 1999.

Sec. 351.013. BUNKS. (a) A cell, compartment, or dormitory in a county jail must have for each prisoner one bunk that is not less than two feet, three inches wide and not less than six feet, three inches long.

(b) Each bunk must have a clean, comfortable mattress and enough clean blankets for the prisoner's comfort.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.014. HOLDING INSANE PERSONS. (a) A person suspected to be or adjudged insane may not be held in a county jail unless the person:

(1) demonstrates homicidal tendencies; and

(2) must be restrained from committing acts of violence against other persons.

(b) A person requiring restraint under this section may be held in a county jail for not more than 24 hours. The person shall be kept under observation at all times.

(c) At the end of the 24-hour period, the person shall be released or taken to a hospital or mental hospital.

(d) A person held under this section shall be kept in a special enclosure or room for that purpose. The special enclosure or room must have:

(1) a clear floor area of 40 square feet or more;

(2) a ceiling height above the floor of eight feet or more; and

(3) a soft covering on the floor and walls, designed to protect a violent person from self-injury or destruction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 952, Sec. 4, eff. Sept. 1, 1999.

Sec. 351.015. ENFORCEMENT. This subchapter is enforceable by the Commission on Jail Standards.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. INTERCOUNTY COOPERATION FOR JAIL FACILITIES

Sec. 351.031. CONTRACT. (a) The commissioners courts of two or more counties may contract with each other for the joint operation of a jail to serve the counties.

(b) The contract may provide for the construction or acquisition of a facility or for the use of an existing facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.032. LOCATION OF FACILITY. A joint facility is not required to be located at the county seat of one of the counties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.033. FINANCING. A county whose share of capital expenditures under the contract includes costs of acquiring land or acquiring, constructing, enlarging, or improving a joint facility may use any method of financing that share that would be available to the county if it operated its own jail, including issuing general obligation bonds or other evidences of indebtedness as provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.034. ADMINISTRATOR. (a) The sheriff of the county in which the jail is located shall serve as administrator of the jail.

(b) The sheriff may decline to serve as administrator by filing a written statement with the commissioners court of that county.

(c) If the sheriff declines to serve as administrator, the commissioners courts of the contracting counties shall jointly appoint a jail administrator. Until an individual is appointed and assumes the duties of jail administrator, the sheriff shall serve as administrator of the jail.

(d) If there is a vacancy in the position of jail administrator, the sheriff shall serve as administrator of the jail until a new jail administrator is appointed and assumes the position.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.035. DUTIES. The sheriff or jail administrator has all the powers, duties, and responsibilities with regard to keeping prisoners and operating the jail that are given by law to the sheriff in a county operating its own jail.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. OPERATION OF COUNTY JAILS

Sec. 351.041. SHERIFF. (a) The sheriff of each county is the keeper of the county jail. The sheriff shall safely keep all prisoners committed to the jail by a lawful authority, subject to an order of the proper court.

(b) The sheriff may appoint a jailer to operate the jail and meet the needs of the prisoners, but the sheriff shall continue to exercise supervision and control over the jail.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.0415. COMMISSARY OPERATION BY SHERIFF OR PRIVATE VENDOR. (a) The sheriff of a county or the sheriff's designee, including a private vendor operating a detention facility under contract with the county, may operate, or contract with another person to operate, a commissary for the use of the inmates committed to the county jail or to a detention facility operated by the private vendor, as appropriate. The commissary must be operated in accordance with rules adopted by the Commission on Jail Standards.

(b) The sheriff or the sheriff's designee:

(1) has exclusive control of the commissary funds;

(2) shall maintain commissary accounts showing the amount of proceeds from the commissary operation and the amount and purpose of disbursements made from the proceeds; and

(3) shall accept new bids to renew contracts of commissary suppliers every five years.

(c) The sheriff or the sheriff's designee may use commissary proceeds only to:

(1) fund, staff, and equip a program addressing the social

needs of the inmates, including an educational or recreational program and religious or rehabilitative counseling;

(2) supply inmates with clothing, writing materials, and hygiene supplies;

(3) establish, staff, and equip the commissary operation and fund the salaries of staff responsible for managing the inmates' commissary accounts;

(4) fund, staff, and equip both an educational and a law library for the educational use of inmates; or

(5) fund physical plant improvements, technology, equipment, programs, services, and activities that provide for the well-being, health, safety, and security of the inmates and the facility.

(d) For a jail under the supervision of the sheriff, at least once each county fiscal year, or more often if the commissioners court desires, the auditor shall, without advance notice, fully examine the jail commissary accounts. The auditor shall verify the correctness of the accounts and report the findings of the examination to the commissioners court of the county at its next term beginning after the date the audit is completed.

(e) A private vendor operating a detention facility under contract with the county shall ensure that the facility commissary accounts are annually examined by an independent auditor.

(f) When entering into a contract under Subsection (a), the sheriff or the sheriff's designee shall consider the following:

(1) whether the contract should provide for a fixed rate of return combined with a sales growth incentive;

(2) the menu items offered by the provider and the price of those items;

(3) the value, as measured by a best value standard, and benefits to inmates and the commissary, as offered by the provider;

(4) safety and security procedures to be performed by the provider; and

(5) the performance record of the provider, including service availability, reliability, and efficiency.

(g) Commissary proceeds may be used only for the purposes described in Subsection (c). A commissioners court may not use commissary proceeds to fund the budgetary operating expenses of a county jail.

Added by Acts 1989, 71st Leg., ch. 980, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 578, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 913, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 55, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1005, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 1057, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 31, eff. September 1, 2005.

Sec. 351.042. JAIL ADMINISTRATOR IN BEXAR COUNTY. The Commissioners Court of Bexar County may appoint a jail administrator who shall exercise all power, supervision, and control over the jail, including the duties imposed by law on the sheriff with respect to the jail.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.043. FEDERAL PRISONERS. (a) The sheriff or jailer may receive into the county jail a federal prisoner delivered by a federal law enforcement officer unless the sheriff or jailer determines that receipt of the prisoner may violate a state or federal court order, a statute, or a rule of the Commission on Jail Standards or the Texas Board of Criminal Justice.

(b) The sheriff or jailer shall safely keep the prisoner until the prisoner is transferred or discharged by due course of law.

(c) The federal law enforcement officer on whose authority the prisoner is received and kept is directly and personally liable to the sheriff or jailer for the jail fees and other costs incurred in keeping the prisoner. The fees and costs shall be estimated according to laws regulating similar fees and costs in other cases.

(d) In this section, "federal law enforcement officer" has the meaning assigned by 5 U.S.C. Section 8331(20).

(e) Repealed by Acts 1997, 75th Leg., ch. 259, Sec. 10, eff. Sept. 1, 1997.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.16, eff. Aug. 29, 1991; Acts 1997, 75th Leg., ch. 259, Sec. 10, eff. Sept. 1, 1997.

Sec. 351.044. PRISONER IN ANOTHER COUNTY'S JAIL. A county to which a prisoner is sent due to the lack of a safe jail in the sending county as determined by the Commission on Jail Standards may recover by suit from the sending county the reasonable cost of keeping the prisoner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 578, Sec. 3, eff. Sept. 1, 1991.

Sec. 351.045. EMPLOYMENT OF HEALTH CARE PROVIDERS. (a) The commissioners court of a county may appoint, contract for, or employ licensed physicians, dentists, or other health care providers to provide health care services to inmates in the custody of the sheriff.

(b) This section may not be construed as authorizing a commissioners court to supervise or control the practice of medicine as prohibited by Subtitle B, Title 3, Occupations Code, or to supervise or control the practice of dentistry as prohibited by Subtitle D, Title 3, Occupations Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 759 (H.B. 1566), Sec. 1, eff. June 17, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 760 (H.B. 1567), Sec. 1, eff. June 17, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 975 (H.B. 1568), Sec. 2, eff. June 17, 2011.
Reenacted by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 12.006, eff. September 1, 2013.

Sec. 351.046. NOTICE TO CERTAIN GOVERNMENTAL ENTITIES. (a) In this section, "medical assistance benefits" means medical assistance benefits provided under Chapter 32, Human Resources Code.

(b) The sheriff of a county may notify the Health and Human Services Commission on the confinement in the county jail of an individual who is receiving medical assistance benefits.

(c) If the sheriff of a county chooses to provide the notice described by Subsection (b), the sheriff, or an employee of the

county or sheriff, shall provide the notice electronically or by other appropriate means as soon as possible after the 30th day after the date of the individual's confinement.

(d) If the sheriff of a county chooses to provide the notice described by Subsection (b), the sheriff shall notify:

(1) the United States Social Security Administration of the release or discharge of a prisoner who, immediately before the prisoner's confinement in the county jail, was receiving:

(A) Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq.; or

(B) Social Security Disability Insurance (SSDI) benefits under 42 U.S.C. Section 401 et seq.; and

(2) the Health and Human Services Commission of the release or discharge of a prisoner who, immediately before the prisoner's confinement in the county jail, was receiving medical assistance benefits.

(e) If the sheriff of a county provides the notices described by Subsection (d), the sheriff, or an employee of the county or sheriff, shall provide the notices electronically or by other appropriate means not later than 48 hours after the prisoner's release or discharge from custody.

(f) If the sheriff of a county provides the notice described by Subsection (d)(2), at the time of the prisoner's release or discharge, the sheriff, or an employee of the county or sheriff, shall provide the prisoner with a written copy of the notice and a telephone number at which the prisoner may contact the Health and Human Services Commission regarding confirmation of or assistance relating to reinstatement of the individual's eligibility for medical assistance benefits, if applicable.

(g) The Health and Human Services Commission shall establish a means by which the sheriff of a county, or an employee of the county or sheriff, may determine whether an individual confined in the county jail is or was, as appropriate, receiving medical assistance benefits for purposes of this section.

(h) A county or the sheriff of a county, or an employee of the county or sheriff, is not liable in a civil action for damages resulting from a failure to comply with this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 778 (H.B. 337), Sec. 2, eff. September 1, 2017.

Sec. 351.047. ASSISTANCE WITH REINSTATEMENT OF BENEFITS. The sheriff of a county may enter into an agreement with a third party with experience providing reintegration resources or services to former prisoners under which the third party assists a person who is released or discharged from the county jail with the reinstatement of the person's eligibility for, as appropriate:

(1) medical assistance benefits under Chapter 32, Human Resources Code;

(2) Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq.; and

(3) Social Security Disability Insurance (SSDI) benefits under 42 U.S.C. Section 401 et seq.

Added by Acts 2017, 85th Leg., R.S., Ch. 778 (H.B. 337), Sec. 2, eff. September 1, 2017.

Sec. 351.048. DUTIES FOLLOWING MISCARRIAGE OR PHYSICAL OR SEXUAL ASSAULT OF PREGNANT PRISONER. (a) In this section:

(1) "Physical assault" means any conduct that constitutes an offense under Section 22.01 or 22.02, Penal Code.

(2) "Sexual assault" means any conduct that constitutes an offense under Section 22.011 or 22.021, Penal Code.

(b) As soon as practicable after receiving a report of a miscarriage or physical or sexual assault of a pregnant prisoner while in the custody of a county jail, the sheriff shall ensure that an obstetrician or gynecologist and a mental health professional promptly:

(1) review the health care services provided to the prisoner; and

(2) order additional health care services, including obstetrical and gynecological services and mental health services, as appropriate.

Added by Acts 2021, 87th Leg., R.S., Ch. 424 (H.B. 1307), Sec. 2, eff. September 1, 2021.

SUBCHAPTER D. CONTRACTS FOR LAW ENFORCEMENT SERVICES ON FEE BASIS

Sec. 351.061. AUTHORITY TO CONTRACT. To protect the public interest, the commissioners court of a county may contract with a nongovernmental association for the provision of law enforcement services by the county on a fee basis in the geographical area represented by the association.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.062. FEES. (a) The commissioners court shall determine the amount of the fee charged by the county. The fees must recover 100 percent of the cost to the county for supplying the law enforcement services, including salaries and any additional expenses the county may incur in providing the services. If the time of the sheriff or county official who provides the services is divided between services to the political subdivision and a nongovernmental association, the total cost to the association must be so prorated, as provided in the contract.

(b) The contract must provide for the payment of the fees to the county. The fees shall be deposited in the general fund of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.063. SERVICES BY SHERIFF OR COUNTY OFFICIAL. The commissioners court may request the sheriff of the county or a county official who has law enforcement authority to provide the services in the geographical area for which the official was elected or appointed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.064. USE OF DEPUTIES. (a) If the sheriff or county official agrees to provide the services, the sheriff or official may provide the services by using deputies. The sheriff or county official retains authority to supervise the deputies who provide the services and, in an emergency, may reassign the deputies to duties other than those to be performed under the contract.

(b) A deputy shall perform duties under the contract in the

same manner as if the deputy were performing the duties in the absence of the contract.

(c) A deputy performing duties under the contract remains a county employee subject to the same benefits and restrictions as any other deputy.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.065. REPORTS BY DEPUTIES. A deputy performing duties under the contract shall submit written copies of any felony offense report and subsequent copies of investigative reports to the sheriff and any municipal police department in the county that serves the area under contract.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.066. DUTIES IN AREA SERVED BY MUNICIPAL POLICE. (a) A deputy performing duties in an area served by a municipal police department shall promptly notify the police department of the deputy's receipt and response to a complaint constituting a felony offense and on request shall secure and preserve the scene of the offense for a reasonable time until the arrival of a representative of the municipal police department.

(b) The county and municipal departments shall cooperate in any criminal investigation to the greatest degree practical. However, this section does not prohibit a county or municipal officer from performing any duties that are required of a peace officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.067. MUNICIPAL APPROVAL OF CONTRACT COVERING AREA WITHIN MUNICIPALITY. (a) If, under a proposed contract, the county would provide law enforcement services within the corporate limits of a municipality, the county shall submit a copy of the proposed contract to the municipality for approval.

(b) The governing body of the municipality, after considering the individual contract, may disapprove the contract within 30 days after the date the contract is received in the municipal offices. If

the governing body of the municipality approves the contract or takes no action for the 30 days, the county may enter into the contract as provided in this subchapter. If the governing body of the municipality disapproves the contract, the county may not enter into the contract.

(c) The municipality and its officers and employees are not liable for any damage caused by the acts of a county official or employee providing services under the contract within the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. COUNTY PARK RANGERS

Sec. 351.081. ESTABLISHMENT IN POPULOUS COUNTIES. The commissioners court of a county with a population of more than 3.3 million or a county that borders the Gulf of Mexico may establish a department of county park rangers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 277, Sec. 1, eff. June 14, 1989; Acts 2001, 77th Leg., ch. 669, Sec. 102, eff. Sept. 1, 2001.

Sec. 351.082. APPOINTMENT OF CHIEF. The commissioners court shall appoint the county sheriff or other qualified person as chief of the department. The chief shall administer the department under the supervision of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.083. LAW ENFORCEMENT SERVICES IN COUNTY PARKS. The department shall provide law enforcement services within the county parks of the county and, in a county that borders the Gulf of Mexico, in the unincorporated areas of the county that are located on an island or isthmus.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 277, Sec. 2, eff. June 14, 1989.

Sec. 351.084. STAFF; AUTHORITY AS PEACE OFFICERS. (a) To carry out the functions of the department, the chief shall employ county park rangers as peace officers and shall employ administrative staff in numbers approved by the commissioners court.

(b) The county park rangers have the same law enforcement authority that is given by law to deputy sheriffs except that the law enforcement jurisdiction of rangers is limited to the county parks of the county and, in a county that borders the Gulf of Mexico, to the unincorporated areas of the county that are located on an island or isthmus.

(c) The law of this state applying to deputy sheriffs applies, to the extent practicable, to county park rangers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 277, Sec. 3, eff. June 14, 1989.

SUBCHAPTER F. COUNTY CONTRACT WITH PRIVATE ENTITY FOR JAIL FACILITIES

Sec. 351.101. AUTHORITY TO CONTRACT. The commissioners court of a county, with the approval of the sheriff of the county, may contract with a private organization to place inmates in a detention facility operated by the organization. The commissioners court may not contract with a private organization in which a member of the court or an elected or appointed peace officer who serves in the county has a financial interest or in which an employee or commissioner of the Commission on Jail Standards has a financial interest. A contract made in violation of this section is void.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 73(a), eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 952, Sec. 5, eff. Sept. 1, 1999.

Sec. 351.102. ADDITIONAL AUTHORITY TO CONTRACT. The commissioners court of a county may contract with a private vendor to provide for the financing, design, construction, leasing, operation, purchase, maintenance, or management of a jail, detention center, work camp, or related facility. The commissioners court may not award a contract under this section unless the commissioners court requests proposals by public notice and not less than 30 days from such notice receives a proposal that meets or exceeds the requirements specified in the request for proposals. Before the

commissioners court of a county enters into a contract under this section, the commissioners court of the county must receive the written approval of the sheriff of the county, which written approval shall not be unreasonably withheld, or if the county has a population of 2.8 million or more:

(1) consult with the sheriff regarding the feasibility of ensuring that all services provided under the contract are required to meet or exceed standards set by the Commission on Jail Standards; or

(2) receive the written approval of the sheriff of the county, which written approval shall not be unreasonably withheld.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 73(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 479, Sec. 2, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 318, Sec. 73, eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 667 (H.B. 1544), Sec. 1, eff. June 14, 2013.

Sec. 351.103. CONTRACT REQUIREMENTS. A contract made under Section 351.102 must:

(1) if the contract includes operation or management of the facility by the private vendor, require the private vendor to operate the facility in compliance with minimum standards adopted by the Commission on Jail Standards and receive and retain a certification of compliance from the commission;

(2) if the contract includes operation or management of the facility by the private vendor, provide for regular, on-site monitoring by the sheriff;

(3) if the contract includes construction, require a performance bond approved by the commissioners court that is adequate and appropriate for the proposed construction contract;

(4) provide for assumption of liability by the private vendor for all claims arising from the services performed under the contract by the private vendor;

(5) if the contract includes operation or management of the facility by the private vendor, provide for an adequate plan of insurance for the private vendor and its officers, guards, employees, and agents against all claims, including claims based on violations

of civil rights, arising from the services performed under the contract by the private vendor;

(6) if the contract includes operation or management of the facility by the private vendor, provide for a plan for the purchase and assumption of operations by the county in the event of the bankruptcy of the private vendor;

(7) if the contract includes operation or management of the facility by the private vendor and if the contract involves conversion of an existing county facility to private vendor operation, require the private vendor to give preferential consideration in hiring to employees at the existing facility who meet or exceed the company's qualifications and standards for employment in available positions;

(8) if the contract includes operation or management of the facility by the private vendor, require the private vendor to provide health care benefits comparable to that of the county;

(9) provide for an adequate plan of insurance to protect the county against all claims arising from the services performed under the contract by the private vendor and to protect the county from actions by a third party against the private vendor, its officers, guards, employees, and agents as a result of the contract; and

(10) if the contract includes operation or management of the facility by the private vendor, contain comprehensive standards for conditions of confinement.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 73(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 479, Sec. 3, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 1299, Sec. 1, eff. June 18, 1999.

Sec. 351.1035. DISADVANTAGED BUSINESSES. (a) In this section, "disadvantaged business" means:

(1) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, who have suffered the effects of discriminatory practices or similar insidious

circumstances over which they have no control;

(2) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by a person described by Subdivision (1) of this subsection;

(3) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by Subdivision (1) of this subsection. Those persons must have a proportionate interest in the control, operation, and management of the partnership's affairs;

(4) a joint venture in which each entity in the joint venture is a disadvantaged business under this subsection; or

(5) a supplier contract between a disadvantaged business under this subsection and a prime contractor under which the disadvantaged business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies.

(b) It is the goal of the legislature that disadvantaged businesses, as defined in this section, be given full and complete access to the process whereby contracts are let under this subchapter. It is also an intent of the legislature that the county and general contractor shall take into consideration participation of disadvantaged businesses having their home offices located in this state when awarding contracts.

(c) It is the intent of the legislature that the county shall:

(1) develop guidelines targeted to disadvantaged businesses in order to inform them fully about the county's contracting and procurement processes and the requirements for their participation in those processes;

(2) develop guidelines to inform disadvantaged businesses of opportunities with the county, including, but not limited to, specific opportunities to submit bids and proposals. Steps that may be appropriate in certain circumstances include mailing requests for proposals or notices inviting bids to all disadvantaged businesses in the county who have requested the county procurement office to place the business on a mailing list;

(3) require prime contractors, as part of their responses to requests for proposals or bids, to make a specific showing of how they intend to utilize participation by disadvantaged businesses as subcontractors;

(4) identify disadvantaged businesses in the county that

provide or have the potential to provide supplies, materials, services, and equipment to the county; and

(5) identify barriers to participation by disadvantaged businesses in the county's contracting and procurement processes, such as bonding, insurance, and working capital requirements that may be imposed on businesses.

Added by Acts 1989, 71st Leg., ch. 479, Sec. 4, eff. Aug. 28, 1989.

Sec. 351.104. SOVEREIGN IMMUNITY INAPPLICABLE. A private vendor operating under a contract authorized by Section 351.102 is not entitled to claim sovereign immunity in a suit arising from the services performed under the contract by the private vendor. However, this section does not deprive the private vendor or the county of any benefits of any law limiting exposure to liability, setting a limit on damages, or establishing defenses to liability.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 73(a), eff. Aug. 28, 1989.

SUBCHAPTER G. JAIL DISTRICT

Sec. 351.121. DEFINITIONS. In this subchapter:

(1) "Board" means the board of directors of the district.

(2) "Cooperating county" means a county that has contracted with one or more other counties for the joint operation of a jail facility under Subchapter B and that has agreed to the creation of the district.

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

(4) "District" means a jail district.

(5) "Jail facility" includes a juvenile detention facility.

(6) "Receiving county" means a county in which a jail facility constructed, acquired, or improved by the district is located and to which the facility is to be conveyed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.122. ELIGIBLE COUNTIES; PURPOSE; BOUNDARIES. (a) A jail district may be created by a county or by two or more counties that have contracted with one another for the joint operation of a

jail under Subchapter B.

(b) A jail district may be created to finance and effect the construction, acquisition, or improvement of a jail facility to serve the county or counties comprising the district.

(c) A district is composed of the area of the county or cooperating counties that created the district.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.123. PETITION. (a) To create a district, a petition requesting creation of the district must be filed with the county clerk's office of each county in the proposed district.

(b) Each petition must be signed by at least 10 percent of the registered voters in the county in which the petition is filed.

(c) Each petition must be certified as valid by the county clerk of the county in which the petition is filed. On certification, the county clerk shall forward the petition to the commissioners court of that county.

(d) A petition for creation of a district must include:

(1) the name of the proposed district;

(2) an accurate description of the area where the proposed district is to be located;

(3) a statement of the purpose for which the district is to be created; and

(4) a request that the district be created.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.124. HEARING. (a) The commissioners court of each county in the proposed district shall consider the petition for creation of the district at a public hearing.

(b) Within 10 days after the date a petition for the creation of a district is filed, the county judge of a county in the proposed district shall issue an order setting the date of the hearing on the petition by the commissioners court of that county and shall endorse the order on the petition or on a paper attached to the petition.

(c) After the order is issued, the county clerk shall issue notice of the hearing.

(d) The hearing on a petition for creation of a district must

be held within 45 days after the date the petition is filed with the county clerk.

(e) A petition may be considered at a regular or a special meeting of a commissioners court of a county in the proposed district.

(f) The county clerk of a county in which a petition is filed shall prepare notice of the hearing that includes a statement of the purpose for the hearing, a brief description of the location of the proposed district, and the date, time, and place of the hearing on the petition.

(g) The county clerk shall publish a copy of the notice in a newspaper of general circulation in the county once a week for two consecutive weeks. The first publication must be made before the 14th day before the date of the hearing.

(h) At the hearing, a person who owns land or resides in the proposed district may appear and present testimony and evidence to the commissioners court for or against the creation of the district.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.125. GRANTING OR DENYING PETITION. (a) Within 10 days after the date of the conclusion of the hearing, the commissioners court holding the hearing shall grant the petition pending approval by the commissioners courts of all other proposed cooperating counties in the district, if any, if it appears from the testimony and evidence presented at the hearing that:

(1) organization of the district is feasible and practicable;

(2) there is a public necessity or need for the district; and

(3) the creation of the district would further the public safety and welfare.

(b) If the commissioners court is unable to make any one of the findings required by Subsection (a), the commissioners court shall refuse to grant the petition's request for creation of the district.

(c) If a commissioners court of a county in the proposed district refuses to grant the petition's request for creation of the district, the district may not be created.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.126. APPOINTMENT OF TEMPORARY DIRECTORS. (a) If the commissioners courts of all counties in the proposed district grant the petition's request for creation of the district, the commissioners court of the county with the greatest population shall appoint three temporary directors and the commissioners court of each other county in the proposed district shall appoint two temporary directors who shall serve until their successors are elected and have qualified for office.

(b) Within 15 days after the date of appointment, each director shall take the oath of office.

(c) If a director appointed by a commissioners court fails to qualify or a vacancy occurs in the office of director, the commissioners court that appointed that director shall appoint another person to fill the vacancy for the unexpired term.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.127. CONFIRMATION ELECTION. (a) Within 30 days after the date all temporary directors have been appointed and have qualified, the board of a proposed district shall meet and call an election to be held within the boundaries of the proposed district to confirm the creation of the district.

(b) The board shall give notice of the election. The notice must state the day and places for holding the election and the proposition to be voted on.

(c) The board shall publish the notice of the election at least once in a newspaper or newspapers of general circulation in the area of the proposed district. The notice must be published before the 30th day before the date set for the election.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the _____ (name of each county in the proposed district) Jail District."

(e) Immediately after the election, the presiding judge of each polling place shall make returns of the results to the board, and the board shall canvass the returns and declare the result.

(f) If a majority of the votes cast at the election favor the

creation of the district, the board shall declare that the district is created and shall enter the results in its minutes.

(g) If a majority of the votes cast at the election are against the creation of the district, the board is abolished except that it shall declare that the district was defeated and shall enter the results in its minutes.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.128. BOND AND TAX PROPOSITION. (a) At an election to confirm the creation of a district, the board may include a proposition to approve the issuance of bonds and the levy of a property tax by the district.

(b) The board must include in any bond and tax proposition the maximum amount of bonds to be issued, their maximum maturity date, and the maximum rate of the tax that may be levied.

(c) The proposition to issue bonds and levy a tax must be included in the same proposition presented to the registered voters to confirm the creation of the district.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.129. BOARD OF DIRECTORS. (a) The district is governed by a board of directors composed of three directors from the county in the district with the greatest population and two directors from every other county in the district. The board shall manage and control the district and shall administer and implement this subchapter.

(b) Directors shall be elected as provided by this subchapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.130. METHOD OF ELECTION; STAGGERED TERMS; TERM OF OFFICE; ELECTION DATE. (a) Two directors shall be elected from each county in the district, except that three directors shall be elected from the county in the district with the greatest population.

(b) At the initial election of directors, the director elected from each county in the district who receives the higher number of

votes serves for a term of two years, and the other director or directors serve for a term of one year.

(c) The initial election of directors must be held on the third Saturday in May of the year following creation of the district. After the initial election of directors, an election shall be held in each county in the district on the third Saturday in May each year and successor directors shall be elected for a two-year term.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.131. OATH; COMPENSATION; OFFICERS; QUORUM. (a) Each director shall take the constitutional oath of office.

(b) Each director is entitled to receive compensation in an annual amount not to exceed the salary of the highest paid county judge from the counties in the district, as determined by the commissioners court of the receiving county.

(c) At the first board meeting after the appropriate number of directors are elected and have qualified for office by taking the oath, the directors shall select from their number one person to serve as chairman, one person to serve as vice-chairman, and one person to serve as secretary. If the district is composed of one county, the person who serves as vice-chairman shall also perform the duties of the secretary. The chairman shall preside over meetings of the board, and in his absence, the vice-chairman shall preside. The chairman, vice-chairman, and secretary shall perform the duties and may exercise the powers specifically given them in this subchapter or in orders of the board.

(d) A majority of the directors constitutes a quorum for the transaction of business of the district, but no official act of the board is valid without the affirmative vote of a majority of the directors.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.132. GENERAL MANAGER; EMPLOYEES. (a) The board shall employ a general manager to serve as the chief administrative officer of the district. The board may delegate to the general manager full authority to manage the affairs of the district subject only to orders of the board.

(b) The general manager shall execute a bond. The bond must be in an amount determined by the board, payable to the district, and conditioned on the faithful performance of the general manager's duties. The district shall pay for the bond.

(c) The general manager is entitled to receive compensation in an annual amount not to exceed the salary of the highest paid county judge from the counties in the district, as provided in the district's budget.

(d) The general manager shall employ persons necessary for the proper handling of the business and operation of the district.

(e) The board shall determine the terms of employment of and the compensation to be paid to those employees.

(f) The general manager or a majority of the directors may dismiss an employee of the district.

(g) The board shall require each employee who collects, pays, or handles any funds of the district to furnish a bond. The bond must be payable to the district, in an amount sufficient to protect the district from financial loss resulting from actions of the employee, and conditioned on the faithful performance of the employee's duties and on accounting for all money and property of the district in the employee's hands. The district shall pay for each bond.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.133. DISTRICT OFFICE; MEETINGS; MINUTES; RECORDS; SEAL. (a) The board shall maintain a main office in the district for conducting the business of the district. The board shall maintain any other offices and stations necessary to carry out this subchapter.

(b) The board shall hold regular meetings at the main office at least once each month on a date established by rule of the board.

(c) The board shall keep a complete written account of all its meetings and other proceedings, and shall maintain the records of the district in a secure manner.

(d) Records of the district are subject to Chapter 552, Government Code.

(e) The board shall adopt a seal for the district.

(f) The preservation, microfilming, destruction, or other

disposition of the records of the district is subject to the requirements of Subtitle C, Title 6, Local Government Code, and rules adopted under that subtitle.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 7, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Sec. 351.134. CONTRACTS; SUITS; PAYMENT OF JUDGMENT; INSURANCE. (a) The board may enter into contracts as provided by this subchapter and shall execute those contracts in the name of the district.

(b) The district may, through its board, sue and be sued in any court of this state in the name of the district. Service of process may be made by serving the general manager. The courts of this state shall take judicial notice of the creation of the district.

(c) A court of this state that renders a money judgment against the district may require the board to pay the judgment from the money of the district.

(d) The board may purchase insurance insuring the district and its employees against any liability incurred under this subchapter and may purchase insurance coverage to cover losses of district property.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.135. GENERAL POWERS. To carry out this subchapter, the district may:

(1) apply for, accept, receive, and administer gifts, grants, loans, and other funds available from any source;

(2) enter into contracts with the federal government and its agencies, this state and its agencies, local governmental entities including the county, and private entities;

(3) conduct, request, and participate in studies, investigations, and research relating to providing a jail facility; and

(4) advise, consult, and cooperate with the federal government and its agencies, the state and its agencies, local

governmental entities including the county, and private entities.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.136. ACQUISITION OF PROPERTY FOR SITE; LEASE; EMINENT DOMAIN. (a) The district may acquire by gift, grant, purchase, or condemnation any land, easements, rights-of-way, and other property interests necessary to construct or improve a jail facility.

(b) The district may lease property on terms and conditions the board determines advantageous to the district.

(c) The district may acquire land for a jail facility by condemnation if the board determines, after notice and hearing, that it is necessary. The right of eminent domain must be exercised in the manner provided by Chapter 21, Property Code, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party and is not required to deposit double the amount of any award in any suit.

(d) If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, or changing in grade or alteration of the construction of any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, changing in grade, or alteration of construction shall be accomplished at the sole expense of the district. "Sole expense" means the actual cost of relocation, raising, lowering, rerouting, or changing in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.137. CONSTRUCTION CONTRACTS. (a) The district may contract with any person to construct or improve any part of a jail facility.

(b) Construction contracts requiring an expenditure of more than $50,000 may be made only after competitive bidding as provided by Subchapter B, Chapter 271.

(c) After a construction contract is awarded, if the district determines that additional work is needed or if the character or type of work, facilities, or improvements should be changed, the board may authorize change orders to the contract on terms the board approves. The board may grant authority to an official or employee responsible for purchasing or for administering a contract to approve a change order that involves an increase or decrease of $50,000 or less. A change made under this subsection may not increase or decrease the total cost of the contract by more than 25 percent.

(d) A construction contract must contain or have attached to it the specifications, plans, and details for work included in the contract, and work shall be done according to those plans and specifications under the supervision of the district.

(e) A construction contract must be in writing and signed by an authorized representative of the district and the contractor.

(f) The contract is a record of the district and is subject to Sections 351.133(c) and (d).

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 18, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 12, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 479 (H.B. 679), Sec. 5, eff. June 17, 2011.

Sec. 351.138. CONTRACTOR'S BOND. (a) A contractor shall execute a bond. The bond must be in an amount determined by the board, not to exceed the contract price, payable to the district, approved by the board, and conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

(b) The bond must provide that if the contractor defaults on the contract, the contractor will pay to the district all damages sustained as a result of the default. The district shall deposit the bond in its depository and shall keep a copy of the bond in its main office.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.139. MONITORING CONSTRUCTION WORK. (a) Until a jail facility is conveyed to a receiving county under Section 351.141, the board has control of any construction, acquisition, or improvement of the jail facility for which it has contracted. The board shall determine whether or not the contract is being fulfilled.

(b) The board shall have the construction work inspected by engineers, inspectors, or other personnel of the district.

(c) During the progress of the construction work, the employees inspecting the work shall submit to the board written reports that show whether or not the contractor is complying with the contract.

(d) On completion of construction work, the employees inspecting the work shall submit to the board a final detailed written report including information necessary to show whether or not the contractor has fully complied with the contract.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.140. PAYMENT FOR CONSTRUCTION WORK. (a) The district shall make monthly progress payments under construction contracts as the work proceeds or at more frequent intervals as determined by the board.

(b) If requested by the board, the contractor shall furnish an analysis of the total contract price showing the amount included for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments.

(c) In making progress payments, the district shall retain 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the board, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, it may authorize any of the remaining progress payments to be made in full. Also, if the work is substantially complete, the board, if it finds the amount retained to be in excess of the amount adequate for the protection of the district, may release to the contractor all or a part of the excess amount.

(d) On completion and acceptance of each separate project, work, or other division of the contract on which the price is stated separately in the contract, payment may be made without retention of a percentage.

(e) When construction work is completed according to the terms of the contract, the board shall draw a warrant on the depository to pay any balance due on the contract.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.141. FINAL APPROVAL AND CONVEYANCE BY BOARD. (a) On receiving the final construction inspection report, the board shall give notice and schedule a public hearing to determine whether the jail facility is complete as specified in the district's plans and in the contract.

(b) At the hearing, the board may require the presentation of any additional information or testimony necessary to make a determination, and the receiving county, if any, may have its representative attend the hearing and present any information and testimony that the receiving county considers necessary.

(c) At the conclusion of the hearing, if the board determines that the work on the jail facility is complete, the board shall pass a resolution to convey the jail facility to the receiving county subject to the requirements of this subchapter if the jail facility is not already owned by the receiving county. The board shall file a copy of the resolution, together with the instrument of conveyance, with the clerk of the receiving county.

(d) The jail district shall make any conveyance of a jail facility to a receiving county as provided by this subchapter free of all interest and indebtedness of the district.

(e) If the board determines that the work on the jail facility has not been completed satisfactorily, the board shall take necessary actions to have the jail facility completed as required by the district's plans, the contract, and the receiving county.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.142. RESPONSIBILITIES OF RECEIVING COUNTY. (a) On completion and approval by the board of the construction or the acquisition and any improvement of a facility constructed or acquired by a jail district under this subchapter and on written approval by the receiving county, the board shall convey the facility to the receiving county.

(b) A receiving county to which a jail facility is conveyed is the owner of the jail facility and is responsible for all operation, maintenance, upkeep, and administration of the jail facility. The district will have no further responsibility for the jail facility. This section does not limit or change the authority of the receiving county to alter, relocate, close, or discontinue operation or maintenance of the jail facility as provided by law.

(c) Conveyance of a jail facility to a receiving county under this section does not affect the duties and responsibilities of the district to pay in full the principal of and the premium, if any, and interest on any outstanding bonds or other indebtedness of the district and to observe and perform the covenants, obligations, or conditions provided by the orders or resolutions authorizing the bonds or other indebtedness. Notwithstanding the conveyance of a jail facility to a receiving county under this section, the district is solely responsible and liable for payment in full of the principal of and the premium and interest on any bonds or other indebtedness of the district.

(d) A written protest alleging that the jail facility does not comply with the district's plans and written approval of the receiving county may be submitted to the board by the receiving county or a municipality in which the jail facility is located before or during the public hearing scheduled under Section 351.141. On receipt of a protest, the board may delay the facility conveyance until the district fully complies with the plans and written approvals.

(e) This subchapter does not prevent the conveyance of a part of the jail facility proposed to be constructed or acquired by a district if the district's jail facility is constructed in stages.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.143. CHANGES AND ADDITIONS TO FACILITIES. (a) Before a jail facility is conveyed to a receiving county, the district may make changes in or additions to the facility if the board determines that the changes or additions are necessary to:

(1) comply with the requirements of that county and, if the facility is located within the jurisdiction of a municipality, comply with the requirements of the municipality in whose limits or

extraterritorial jurisdiction the facility is located; or

(2) adjust to circumstances or requirements that did not exist at the time the original plans for the facility were approved by the board.

(b) Before changes or additions are made under this section, the board shall consult with the receiving county regarding the proposed changes.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.144. CONTRACTS FOR PURCHASE OF VEHICLES, EQUIPMENT, AND SUPPLIES OVER $5,000. (a) If the estimated amount of a proposed contract for the purchase of vehicles, equipment, or supplies is more than $15,000, the board shall ask for competitive bids in accordance with the bidding procedures provided by the County Purchasing Act (Subchapter C, Chapter 262) except that the bids shall be presented to the board and the board shall award the contract.

(b) This section does not apply to purchases of property from public agencies or to contracts for personal or professional services.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 19, eff. Sept. 1, 1993.

Sec. 351.145. FISCAL YEAR; ANNUAL AUDIT; ANNUAL BUDGET. (a) The district shall be operated on the basis of a fiscal year established by the board. The fiscal year may not be changed more than once in a 24-month period.

(b) Annually, the board shall have an audit made of the financial condition of the district.

(c) The board shall prepare and approve an annual budget. The budget must contain a complete financial statement, including a statement of the:

(1) outstanding obligations of the district;

(2) amount of cash on hand to the credit of each fund of the district;

(3) amount of money received by the district from all sources during the previous year;

(4) amount of money estimated to be available to the district from all sources during the ensuing year;

(5) amount of the balances expected at the end of the year in which the budget is being prepared;

(6) estimated amount of revenues and balances available to cover the proposed budget; and

(7) estimated tax rate that will be required.

(d) The board shall hold a public hearing on the annual budget. Before the 10th day before the date set for the hearing, the board must publish notice of the hearing in a newspaper of general circulation in the district.

(e) Any person who owns land or resides in the district is entitled to be present at and participate in the hearing.

(f) At the conclusion of the hearing, the board shall act on the budget and may make changes in the proposed budget that in its judgment the interests of the taxpayers demand.

(g) After the annual budget is adopted, the board may amend the budget.

(h) Money may not be spent for an expense not included in the annual budget or an amendment to it.

(i) As soon as practicable after the close of the fiscal year, the general manager shall prepare for the board a sworn statement of the amount of money that belongs to the district and an account of the disbursements of that money.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.146. DEPOSITORY. (a) The board shall name one or more banks to serve as depository for district funds.

(b) District funds, other than those transmitted to a bank of payment for bonds issued by the district, shall be deposited as received with the depository bank. This subsection does not limit the power of the board to place a part of the district's funds on time deposit or to purchase certificates of deposit.

(c) Before the district deposits funds in a bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation, the bank must execute a bond or other security in an amount sufficient to secure from loss the district funds that exceed the amount secured by the Federal Deposit Insurance

Corporation.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.147. INVESTMENTS. (a) Funds of the district may be invested and reinvested by the board or its authorized representative in direct or indirect obligations of the United States, the state, or any county, municipality, school district, or other political subdivision of the state.

(b) Funds of the district may be placed in certificates of deposit of state or national banks or state or federal savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the state.

(c) The board by resolution may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for investments on such terms as the board considers advisable.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.148. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The board may pay all costs and expenses necessarily incurred in the creation and organization of a district, legal fees, and other incidental expenses and may reimburse any person for money advanced for those purposes.

(b) Payments may be made from money obtained from the sale of bonds first issued by the district or out of operation taxes or other revenues of the district.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.149. ISSUANCE OF BONDS. The board may issue and sell bonds in the name of the district to acquire land to erect a jail facility and to construct, acquire, or improve a jail facility. The bond proceeds may be used to pay or establish a reasonable reserve to pay not more than three years' interest on the bonds and notes of the

district and to pay expenses related to issuance and sale of bonds as provided by the bond orders or resolutions.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.150. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of the principal of and interest on the bonds:

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

(2) by pledging all or any part of the designated revenues of the district; or

(3) from a combination of the sources listed in Subdivisions (1) and (2).

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.151. BOND AND TAX ELECTION. (a) Bonds secured in whole or in part by taxes may not be issued by the district until the bonds and the taxes are authorized by a majority vote of the registered voters of the district voting at an election called and held for that purpose.

(b) The board may order a bond and tax election, and the order calling the election must state the nature and the date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds and the proposed maximum tax rate to be authorized, and the maximum maturity of the bonds.

(c) Notice of a bond and tax election must be given as provided by Section 351.127 for confirmation elections.

(d) At an election to authorize bonds payable wholly from ad valorem taxes, the ballots must be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of taxes at a maximum rate of _____ for payment of the bonds." At any election to authorize bonds payable from both ad valorem taxes and revenues, the ballots must be printed to provide for voting for or against: "The issuance of bonds and the pledge of net revenues and the levy of ad valorem taxes at a maximum rate of _____ adequate to provide for the payment of the bonds."

(e) The board shall canvass the returns and declare the results

of the election. If a majority of the votes cast at the election favor the issuance of the bonds and levy of taxes, the bonds may be issued and taxes levied by the board, but if a majority of the votes cast at the election do not favor issuance of the bonds and levy of taxes, the bonds may not be issued and the taxes may not be levied.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.152. FORM OF BONDS. (a) A district may issue its bonds in various series or issues.

(b) Bonds may mature serially or otherwise not more than 50 years from their date and shall bear interest at any rate permitted by the constitution and laws of the state.

(c) A district's bonds and interest coupons, if any, are investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest and may be made redeemable before maturity at the option of the district or may contain a mandatory redemption provision.

(d) A district's bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details and shall be signed and executed as provided by the board in the resolution or order authorizing their issuance.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.153. PROVISIONS OF BONDS. (a) In the orders or resolutions authorizing the issuance of bonds, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds and may make additional covenants with respect to the bonds, the pledged revenues, and the operation and maintenance of those works, improvements, and facilities, the revenue of which is pledged.

(b) The orders or resolutions of the board authorizing the issuance of bonds may also prohibit the further issuance of bonds payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in

support of the bonds being issued.

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine.

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

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.154. APPROVAL BY ATTORNEY GENERAL; REGISTRATION BY COMPTROLLER. (a) Bonds issued by a district must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds have been authorized in accordance with law, the attorney general shall approve them, and they shall be registered by the comptroller.

(c) After the approval and registration of bonds, the bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.155. REFUNDING BONDS. (a) A district may issue bonds to refund all or any part of its outstanding bonds, including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 50 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of the state.

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

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

(e) The orders or resolutions authorizing the issuance of the refunding bonds may provide that they be sold and the proceeds deposited in the place or places at which the bonds being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds being refunded. If refunding bonds are issued before cancellation of the other bonds, an amount sufficient

to pay the principal of and interest on the bonds being refunded to their maturity dates or to their option dates if the bonds have been duly called for payment before maturity according to their terms must be deposited in the place or places at which the bonds being refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds being refunded.

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

(g) Instead of the method set forth in this section, a district may refund bonds as provided by the general laws of the state.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.156. BONDS AS INVESTMENTS; BONDS AS SECURITY FOR DEPOSITS. (a) District bonds are legal and authorized investments for:

(1) banks;

(2) trust companies;

(3) savings and loan associations;

(4) insurance companies;

(5) fiduciaries;

(6) trustees;

(7) guardians; and

(8) sinking funds of municipalities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

(b) District bonds are eligible to secure deposits of public funds of the state and municipalities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.157. TAX STATUS OF BONDS. Bonds issued by a district under this subchapter, any transaction relating to the bonds, and

profits made in the sale of the bonds are free from taxation by the state or by any municipality, county, special district, or other political subdivision of the state.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.158. LEVY OF TAXES. (a) The board may annually levy taxes to pay the bonds authorized under Section 351.149 and issued by the district, but the district may not levy taxes to pay the principal of or interest on revenue bonds issued under this subchapter.

(b) The board may levy taxes for the entire year in which the district is created.

(c) The board shall levy taxes on all property in the district subject to district taxation.

(d) In setting the tax rate, the board shall take into consideration the income of the district from sources other than taxation. On determination of the amount of tax required to be levied, the board shall make the levy and certify it to the tax assessor-collector.

(e) Title 1 of the Tax Code governs the appraisal, assessment, and collection of district taxes.

(f) The board may provide for the appointment of a tax assessor-collector for the district or may contract for the assessment and collection of taxes as provided by Title 1 of the Tax Code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

Sec. 351.159. DISSOLUTION OF DISTRICT. (a) After a district has completed all construction, acquisition, and improvement of jail facilities provided in the plans approved by the board and has conveyed those facilities to a receiving county under this subchapter and after all bonds and other indebtedness of the district are paid in full, the district may be dissolved in the manner provided by Subsection (b).

(b) A district is dissolved if:

(1) the board adopts a resolution dissolving the district;

(2) a majority of the commissioners courts of the counties

in the district vote to dissolve the district; or

(3) a majority of the registered voters in a majority of the counties in the district vote to dissolve the district in referendum elections.

(c) A referendum election on whether to dissolve a district shall be called by the commissioners court of a county in the district if 10 percent or more of the registered voters in the county petition the commissioners court for such an election.

(d) If, at the time a district is dissolved, the district has any surplus funds in any of its accounts, the board shall transfer those funds to the county entity that assumes jurisdiction over the facilities conveyed by the district, and the county receiving the funds shall use those funds to maintain the facilities conveyed.

(e) On the dissolution of a district, the district ceases to exist and the board shall continue in existence only for the purpose of transferring district funds and disposing of district assets.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 74(a), eff. Aug. 28, 1989.

SUBCHAPTER H. COUNTY CORRECTIONAL CENTERS

Sec. 351.181. ESTABLISHMENT. The commissioners court of a county may establish a county correctional center after receiving the written consent of the sheriff. A sheriff may not unreasonably withhold consent under this subsection.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 3.03, eff. Sept. 1, 1989.

Sec. 351.182. POWERS AND DUTIES OF SHERIFF. The sheriff of the county in which a county correctional center has been established is responsible for the operation of the center, but must consult with the director of the community supervision and corrections department serving the county about issues relating to probationers participating in county correctional center programs.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 3.03, eff. Sept. 1, 1989.

Sec. 351.183. PROGRAMS. The sheriff, through a county correctional center program, may:

(1) house and provide work programs and counseling for:

(A) persons convicted of misdemeanors and sentenced to a term of confinement in county jail;

(B) persons required as a condition of misdemeanor or felony probation to serve a term of confinement in county jail; or

(C) persons required to serve a term of confinement in county jail as punishment for violation of a condition of misdemeanor or felony probation; or

(2) in cooperation with the community supervision and corrections department serving the county, operate work programs and counseling programs for persons required as a condition of misdemeanor or felony probation to participate in those programs.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 3.03, eff. Sept. 1, 1989.

Sec. 351.184. CERTIFICATION. (a) To certify county correctional centers as eligible for state funding under Section 509.011(b)(6), Government Code, the community justice assistance division of the Texas Department of Criminal Justice, with the assistance of the Commission on Jail Standards, shall develop standards for the physical plant and operations of county correctional centers.

(b) The Texas Department of Criminal Justice and the Commission on Jail Standards shall adopt a memorandum of understanding that establishes their respective responsibilities in certifying county correctional centers. The community justice assistance division shall coordinate the development of the memorandum of understanding. The commission and the Texas Department of Criminal Justice by rule shall adopt the memorandum of understanding.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 3.03, eff. Sept. 1, 1989. Amended by Acts 1990, 71st Leg., 6th C.S., ch. 25, Sec. 6, eff. June 18, 1990; Acts 1995, 74th Leg., ch. 76, Sec. 7.08, eff. Sept. 1, 1995.

Sec. 351.185. PAYMENT OF STATE AID. (a) On or after the

effective date of this section, a county may apply to the community justice assistance division of the Texas Department of Criminal Justice for state aid funded in the General Appropriations Act for residential services or the community corrections program.

(b) The sheriff shall deposit all state aid received under this section in the county treasury to be used solely for the purposes of the county correctional center program. The community justice assistance division may audit state aid received under this section.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 3.03, eff. Sept. 1, 1989.

Sec. 351.186. REPORTS. The sheriff of a county receiving state aid under this subchapter shall submit reports as required by the community justice assistance division of the Texas Department of Criminal Justice.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 3.03, eff. Sept. 1, 1989.

SUBCHAPTER I. COUNTY JAIL INDUSTRIES PROGRAM

Sec. 351.201. COUNTY JAIL INDUSTRIES PROGRAM. (a) A commissioners court by order may establish a county jail industries program. The sheriff may allow inmate participation in the county jail industries program in carrying out his constitutional and statutory duties.

(b) The purposes for which a county jail industries program may be established are to:

(1) provide adequate, regular, and suitable employment for the vocational training of inmates;

(2) reimburse the county for expenses caused by the crimes of inmates and the cost of their confinement; or

(3) provide for the distribution of articles and products produced under this subchapter to:

(A) offices of the county and offices of political subdivisions located in whole or in part in the county; and

(B) nonprofit organizations that provide services to the general public and enhance social welfare and the general well-being of the community.

(c) A commissioners court, in an order establishing a county jail industries program, shall, with the approval of the sheriff:

(1) designate the county official or officials responsible for management of the program; and

(2) designate the county official or officials responsible for determining which inmates are allowed to participate in a county jail industries program.

(d) An order of a commissioners court establishing a county jail industries program, though not limited to, may provide for any of the following:

(1) an advisory committee;

(2) the priorities under which the county jail industries program is to be administered;

(3) procedures to determine the articles and products to be produced under this subchapter;

(4) procedures to determine the sales price of articles and products produced under this subchapter; and

(5) procedures for the development of specifications for articles and products produced under this subchapter.

(e) A county jail industries program may be operated at the county jail, workfarm, or workhouse or at any other suitable location.

(f) An inmate does not have a right to participate in a county jail industries program, and neither the sheriff, county judge, or commissioners nor any other county official or employee may be held liable for failing to provide a county jail industries program.

Added by Acts 1993, 73rd Leg., ch. 578, Sec. 1, eff. June 11, 1993.

Sec. 351.202. REVENUE. Money received from the operation of a county jail industries program shall be deposited in the general revenue fund of the county to be used as reimbursement for the cost of inmate confinement. The cost to a county for an inmate's participation in a county jail industries program is considered to be a part of the cost of confinement of the inmate.

Added by Acts 1993, 73rd Leg., ch. 578, Sec. 1, eff. June 11, 1993.

SUBCHAPTER J. COUNTY ADULT SEXUAL ASSAULT RESPONSE TEAMS

Sec. 351.251. DEFINITIONS. In this subchapter:

(1) "Adult" means an individual who is not a child as defined by Section 101.003, Family Code.

(2) "Response team" means a multidisciplinary team established under this subchapter to strengthen the collaborative response and enhance health and judicial outcomes for sexual assault survivors who are adults.

(3) "Sexual assault program" means a program that:

(A) operates independently from a law enforcement agency or prosecutor's office;

(B) is operated by a local public or private nonprofit corporation either independently or as part of a municipal, county, or state agency; and

(C) provides the minimum services, as defined by Section 420.003, Government Code, to adult survivors of stranger and non-stranger sexual assault.

(4) "Survivor" means an individual who is a victim of a sexual assault or other sex offense, regardless of whether a police report is filed for the incident.

Added by Acts 2021, 87th Leg., R.S., Ch. 568 (S.B. 476), Sec. 1, eff. September 1, 2021.

Sec. 351.252. ESTABLISHMENT. (a) Except as provided by Subsection (b), the commissioners court of each county shall establish an adult sexual assault response team that includes the following members appointed by the commissioners court:

(1) the chief administrator, or the chief administrator's designee, of a sexual assault program that provides services for the county;

(2) a prosecutor with jurisdiction in the county over cases involving sexual assault committed against adults;

(3) the chief, or the chief's designee, of the municipal police department with the largest population in the county, provided a municipality in the county has a municipal police department;

(4) the sheriff or the sheriff's designee;

(5) either:

(A) a sexual assault nurse examiner or forensic examiner from a facility that conducts sexual assault forensic exams

for the county; or

(B) a representative from the largest health care provider operating in the county if the county does not have a professional described by Paragraph (A);

(6) a behavioral health services provider operating in the county or, if the county does not have a behavioral health services provider, a representative from the county health department; and

(7) other persons the presiding officer of the response team considers necessary for the operation of the response team or as recommended by the response team.

(b) Two or more counties, each with a population of 250,000 or less, within a contiguous area may partner to form a multicounty response team.

Added by Acts 2021, 87th Leg., R.S., Ch. 568 (S.B. 476), Sec. 1, eff. September 1, 2021.

Sec. 351.253. PRESIDING OFFICER. The response team shall elect a presiding officer from among its members.

Added by Acts 2021, 87th Leg., R.S., Ch. 568 (S.B. 476), Sec. 1, eff. September 1, 2021.

Sec. 351.254. MEETINGS. (a) A response team shall meet:

(1) at least quarterly at a time determined by the presiding officer;

(2) not later than the 90th day after the last day of a regular legislative session to review and amend as necessary any protocols, forms, or guidelines developed under this subchapter; and

(3) at any other time at the call of the presiding officer.

(b) If a response team member is unable to participate in a response team meeting, the member or entity the member is representing may designate another individual to represent the member or entity at the meeting. Each member or a designee of that member must participate in all response team meetings.

(c) A response team member must attend the quarterly meetings held as required under Subsection (a)(1) to participate in response team functions.

(d) A response team shall meet independently of a children's

advocacy center multidisciplinary team described by Section 264.406, Family Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 568 (S.B. 476), Sec. 1, eff. September 1, 2021.

Sec. 351.255. VACANCIES. The commissioners court of a county shall fill a vacancy for a response team member not later than the 30th day after the date the vacancy occurs and in the same manner as the original appointment.

Added by Acts 2021, 87th Leg., R.S., Ch. 568 (S.B. 476), Sec. 1, eff. September 1, 2021.

Sec. 351.256. ADULT SEXUAL ASSAULT RESPONSE PROTOCOL. (a) A response team shall develop a written protocol addressing the coordinated response for adult survivors in the county that includes:

(1) the procedures to be used in investigating and prosecuting cases arising from a report of sexual assault;

(2) interagency information sharing, in accordance with state and federal law, to ensure the timely exchange of relevant information and enhance the response to survivors;

(3) the location and accessibility of sexual assault forensic examinations;

(4) information on the availability of and access to medical care when the care is clinically indicated;

(5) a requirement to ensure survivors are offered access to sexual assault program advocates, as defined by Section 420.003, Government Code;

(6) information on the availability of and access to mental and behavioral health services;

(7) a requirement to ensure that relevant law enforcement agencies notify survivors in a timely manner regarding the status of any criminal case and court proceeding;

(8) an assessment of relevant community trends, including drug-facilitated sexual assault, the incidence of predatory date rape, and sex trafficking;

(9) a biennial evaluation through sexual assault case reviews of the effectiveness of individual agency and interagency

protocols and systems;

(10) at least four hours of annual cross-agency training on the dynamics of sexual assault for response team members participating in the quarterly meetings as required by Section 351.254(c); and

(11) procedures for addressing conflicts within the response team and for maintaining the confidentiality of information shared among response team members as required by law.

(b) In developing a protocol under this section, the response team:

(1) shall consider Chapter 56A, Code of Criminal Procedure;

(2) may provide different procedures for use within a particular municipality or area of the county served by the response team; and

(3) shall prioritize the health and safety of survivors.

(c) The purpose of the protocol developed under this section is to ensure coordination between all agencies involved in sexual assault cases to increase the efficacy of response and to minimize survivor traumatization. The response team shall provide the protocol to each agency in the county that responds to disclosures of sexual assault.

(d) Failure to follow a protocol developed under this section does not:

(1) constitute the basis for a claim or defense to a civil or criminal action; or

(2) preclude the admissibility of evidence.

Added by Acts 2021, 87th Leg., R.S., Ch. 568 (S.B. 476), Sec. 1, eff. September 1, 2021.

Sec. 351.257. REPORT. (a) Not later than December 1 of each odd-numbered year, a response team shall provide to the commissioners court of each county the response team serves a report that includes:

(1) a list of response team members able to participate in the quarterly meetings required by Section 351.254(c);

(2) a copy of the written protocol developed under Section 351.256; and

(3) either:

(A) a biennial summary detailing:

(i) the number of sexual assault reports received by local law enforcement agencies;

(ii) the number of investigations conducted as a result of those reports;

(iii) the number of indictments presented in connection with a report and the disposition of those cases;

(iv) the number of reports of sexual assault for which no indictment was presented; and

(v) the number of evidence collection kits described by Section 420.031, Government Code, that a law enforcement agency did not take possession of within the period required by Section 420.035(b) or (c), Government Code, as applicable; or

(B) an explanation of the reason the response team failed to provide the information described by Paragraph (A).

(b) Not later than February 1 of each even-numbered year, the commissioners court of each county that receives a report described by Subsection (a) during the preceding year shall submit that report to the Sexual Assault Survivors' Task Force established under Section 772.0064, Government Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 568 (S.B. 476), Sec. 1, eff. September 1, 2021.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 22 (S.B. 608), Sec. 2, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 365 (H.B. 47), Sec. 15, eff. September 1, 2025.

Sec. 351.2571. NONCOMPLIANCE. Failure to comply with the requirements of Section 351.257 may be used to determine eligibility for receiving grant funds from the office of the governor or another state agency.

Added by Acts 2025, 89th Leg., R.S., Ch. 365 (H.B. 47), Sec. 16, eff. September 1, 2025.

Sec. 351.258. MEETINGS AND RECORDS; CONFIDENTIALITY. (a) A response team meeting is not subject to Chapter 551, Government Code.

(b) This section does not prohibit a response team from

requesting or allowing the attendance of a person who is not a response team member at a response team meeting.

(c) Information and records acquired by a response team in the exercise of its purpose and duties under this subchapter are confidential and not subject to disclosure under Chapter 552, Government Code, and may only be disclosed as necessary to implement the response team's purpose and duties.

(d) A report or a statistical compilation of data reports created by the response team is public information subject to Chapter 552, Government Code, provided the report or compilation does not contain any personally identifiable information.

(e) Information, documents, and records of the response team that are confidential under this section are not subject to subpoena or discovery and may not be introduced into evidence in any civil, criminal, or administrative proceeding, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or introduction into evidence solely because that information or those documents or records were presented during a response team meeting or maintained by the response team.

(f) A response team may only review a sexual assault case of an adult survivor with the signed, written consent of the survivor. The consent must specify:

(1) the information or records covered by the release;

(2) the reason or purpose for the release; and

(3) the person or agency to which the information is to be released.

Added by Acts 2021, 87th Leg., R.S., Ch. 568 (S.B. 476), Sec. 1, eff. September 1, 2021.

SUBCHAPTER Z. MISCELLANEOUS LAW ENFORCEMENT PROVISIONS

Sec. 351.901. DONATION TO CERTAIN CRIME STOPPERS AND CRIME PREVENTION ORGANIZATIONS. (a) In this section:

(1) "Crime stoppers organization" means a private, nonprofit organization or a public organization that:

(A) is operated on a local or statewide level;

(B) accepts donations and expends funds for rewards to persons who submit tips under Section 414.0015(a), Government Code; and

(C) forwards the information received from tips to the appropriate law enforcement agency, school district, or open-enrollment charter school as provided by Section 414.0015(b), Government Code.

(2) "Crime prevention organization" means an organization with an advisory council consisting of local law enforcement officers and volunteers from the community that:

(A) is operated on a local or statewide level;

(B) identifies crime-related issues relevant to a segment of society particularly prone to victimization, including the elderly population; and

(C) provides assistance to the community in the form of crime prevention and education and provides training for law enforcement officers in dealing effectively with the segment of society prone to victimization.

(3) "Open-enrollment charter school" means a school that has been granted a charter under Subchapter D, Chapter 12, Education Code.

(4) "School district" means a public school district created under the laws of this state.

(b) The commissioners court of a county by contract may donate money to one or more crime stoppers or crime prevention organizations for expenditure by the organizations to meet the goals identified in Subsection (a). The total amount of all donations made in a calendar year may not exceed:

(1) $25,000; or

(2) $100,000, for a county with a population of 1.2 million or more.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 700, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 165, Sec. 1, eff. May 21, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 417 (H.B. 3067), Sec. 1, eff. June 10, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 12, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 181, eff. September 1, 2023.

Sec. 351.902. BUREAU OF CRIMINAL IDENTIFICATION. (a) On written and sworn application by a sheriff stating the necessity for the purchase, the commissioners court may purchase equipment for a bureau of criminal identification.

(b) The equipment must be compatible with the equipment used for this purpose by the Department of Public Safety, the United States Department of Justice, or the United States Bureau of Criminal Identification. The equipment may include items such as cameras, fingerprint cards, inks, chemicals, microscopes, radio and laboratory equipment, filing cards, filing cabinets, and tear gas.

(c) A purchase allowed under this section must be made by the sheriff by requisition in the manner provided by the county auditor or, if the county does not have a county auditor, by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.904. ELECTRONIC MONITORING PROGRAM. (a) A commissioners court of a county may establish and operate an electronic monitoring program for the purpose of monitoring defendants required by a court of the county to participate in an electronic monitoring program under:

(1) Article 43.09, Code of Criminal Procedure, to discharge a fine or costs; or

(2) Article 42.035, Code of Criminal Procedure, as an alternative to serving all or part of a sentence of confinement in county jail.

(b) The commissioners court shall provide for the sheriff or the community supervision and corrections department serving the county, under an agreement with the commissioners court, to oversee and operate, or, if the program is operated by a private vendor under Subsection (c), oversee the operation of, an electronic monitoring program established under this section.

(c) A commissioners court may contract with a private vendor to operate an electronic monitoring program under this section, including by enrolling and tracking participants in the program and performing periodic reviews with participants regarding compliance with the program.

(d) A commissioners court may use money that a defendant is

ordered to pay to a county under Article 42.035(c), Code of Criminal Procedure, to pay for the services of a private vendor that operates an electronic monitoring program under Subsection (c).

(e) A commissioners court may subsidize all or part of the cost of a defendant's participation in an electronic monitoring program under this section if the defendant is indigent.

(f) A commissioners court may contract for any available electronic monitoring technology, including a technology that provides continuous positional tracking of the participant, that meets the approval of the commissioners court and either the sheriff or the community supervision and corrections department, as appropriate.

Added by Acts 2009, 81st Leg., R.S., Ch. 854 (S.B. 2340), Sec. 6, eff. June 19, 2009.

CHAPTER 352. COUNTY FIRE PROTECTION
SUBCHAPTER A. PROTECTION OF COUNTY RESIDENTS

Sec. 352.001. FIRE PROTECTION OF COUNTY RESIDENTS. (a) The commissioners court of a county may furnish fire protection or fire-fighting equipment to the residents of the county or of an adjoining county who live outside municipalities.

(b) The commissioners court may:

(1) purchase fire trucks or other fire-fighting equipment;

(2) issue time warrants and levy and collect taxes to pay the principal of and interest on the time warrants as provided by law; and

(3) contract with the governing body of a municipality located within the county or within an adjoining county to use fire trucks or other fire-fighting equipment that belongs to the municipality.

(c) The commissioners court of a county may contract with an incorporated volunteer fire department that is located within the county to provide fire protection to an area of the county that is located outside the municipalities in the county. The court may pay for that protection from the general fund of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.002. USE OF SURPLUS OR SALVAGE PROPERTY BY VOLUNTEER FIRE DEPARTMENT. (a) In this section:

(1) "Surplus property" means personal property that is in excess of the needs of its owner, that is not required for the owner's foreseeable needs, and that possesses some usefulness for the purpose for which it was intended or for some other purpose.

(2) "Salvage property" means personal property, other than wastepaper, that because of use, time, or accident is so damaged, used, or consumed that it has no value for the purpose for which it was originally intended.

(b) The commissioners court of a county may contract to supply surplus or salvage property to any incorporated volunteer fire department with which the commissioners court has contracted under Section 352.001.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.003. FIRE PROTECTION IN CERTAIN COUNTIES. (a) For use in protecting bridges, county shops, county warehouses, and other property located outside the municipalities in a county with a population of 350,001 to 449,999, the commissioners court of the county may:

(1) purchase fire trucks and other fire-fighting equipment; and

(2) contract with a centrally located municipality within the county for the operation and maintenance of the equipment.

(b) In a county with a population of less than 20,000 and a property valuation of more than $100 million according to the most recently approved county tax rolls, the commissioners court of the county may:

(1) contract with the governing bodies of municipalities in the county for the furnishing by the municipalities of fire protection outside the municipalities; and

(2) appropriate funds to pay the municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.004. AGENCY; LIABILITY. (a) In this section, "furnishing fire protection" includes traveling to or from a fire.

(b) The act of a person who, in carrying out a county's authority to provide fire protection, furnishes fire protection to a county resident who lives outside the municipalities in the county, including the act of a person who is a regular employee or fire fighter of a municipality, is considered to be the act of an agent of the county.

(c) A municipality is not liable for the act of its employee in fighting fires outside the municipality under a contract between the commissioners court of the county and the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.005. CONTRACTUAL PROVISION OF FIRE-FIGHTING EQUIPMENT OR SERVICES. (a) This section applies to a county with a population of 350,000 or more.

(b) By an order or resolution passed by majority vote, the governing body of a municipality that has a volunteer fire department recognized by the State Board of Insurance may petition the commissioners court to furnish fire-fighting equipment to the municipality. The commissioners court may contract with the petitioning governing body to furnish the equipment if the governing body shows that the municipality is eligible to receive the service and benefit of the equipment by compliance with this section.

(c) A group of at least 25 county residents who live in an unincorporated community in the county, who are qualified to vote in a county bond election, and who have organized or will organize within a reasonable time a volunteer fire department recognized by the State Board of Insurance may petition the commissioners court of the county to furnish fire-fighting equipment to the group. The commissioners court may contract with the petitioning residents to furnish the equipment.

(d) The commissioners court may provide the fire-fighting equipment for the use and benefit of the petitioner under a contract subject to the conditions that the petitioner shall:

(1) furnish a satisfactory place in which to keep the equipment;

(2) pay all the costs of operating the equipment; and

(3) furnish the personnel necessary to operate the

equipment.

(e) The petitioner shall keep the fire-fighting equipment in good working order, make all necessary repairs or replacements, and provide labor and materials for repairs. The commissioners court may provide the petitioner with at least one emergency unit of fire-fighting equipment to be used while the regular unit is being repaired or replaced. The commissioners court may use an available truck or other equipment if it is unable to acquire a new truck or equipment for the purpose of building or equipping the fire-fighting equipment.

(f) The petitioner is responsible for the safekeeping of the fire-fighting equipment and is liable to the county for any loss through theft, or, if the petitioner is a municipality, through negligence by an officer, agent, or employee of the municipality, or, if the petitioner is a group of county residents, through negligence by one of those residents who handles or operates the equipment.

(g) Before a unit of fire-fighting equipment is delivered to a petitioner, the petitioner must post a bond with good and sufficient surety, payable to the county, in an amount fixed by the commissioners court that does not exceed the initial cost of the unit of fire-fighting equipment. The bond must be conditioned on payment to the county of the amount of the actual loss to each unit of equipment, or part of a unit, that results from theft or negligence for which the petitioner is liable.

(h) The fire-fighting equipment shall remain in the county. The commissioners court may inspect the equipment at any time and may repossess the equipment for noncompliance with this section by the petitioner.

(i) For the purpose of fighting fires outside the limits of a municipality, the commissioners court may contract with any municipality in the county for the use of fire-fighting equipment and the use and service of the equipment by the municipal fire department. The contract shall be on the terms and conditions agreed to by the commissioners court and the governing authority of the municipality. The commissioners court shall pay the costs of the items covered by the contract from the general fund of the county.

(j) Fire-fighting equipment purchased by a county for the purpose of furnishing equipment under this section is subject to the competitive bidding requirements applicable to other county purchases.

(k) The commissioners court shall pay the costs of administering this section from the general fund of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 265 (H.B. 712), Sec. 1, eff. September 1, 2013.

Sec. 352.006. SALE OF USED FIRE PROTECTION OR FIRE-FIGHTING EQUIPMENT TO CERTAIN VOLUNTEER FIRE DEPARTMENTS. (a) In this section, "volunteer fire department" means an association that:

(1) operates fire-fighting equipment;

(2) is organized primarily to provide and actively provides fire-fighting services;

(3) does not pay its members compensation other than nominal compensation; and

(4) does not distribute any of its income to its members, officers, or governing body, other than for reimbursement of expenses.

(b) Notwithstanding Subchapter D, Chapter 263, or other law, the commissioners court of a county may sell used fire-fighting equipment, excluding equipment described in Sections 419.040 and 419.041, Government Code, to a volunteer fire department for eight percent of the original purchase value of the equipment if:

(1) the fire protection or fire-fighting equipment is at least 15 years old and met the National Fire Protection Association standards at the original time of purchase; and

(2) the volunteer fire department provides fire protection to an area within the county.

Added by Acts 2003, 78th Leg., ch. 952, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER B. COUNTY FIRE MARSHAL

Sec. 352.011. CREATION OF OFFICE; TERM. (a) The commissioners court of a county may establish the office of county fire marshal and provide office facilities, equipment, transportation, assistants, and professional services for that office.

(b) The commissioners court shall establish the term of office

for a county fire marshal for a period not to exceed two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.012. QUALIFICATIONS FOR OFFICE. (a) To qualify for office, the county fire marshal must take the oath prescribed by the constitution of this state and post a bond as required by the commissioners court conditioned that the marshal will faithfully and strictly perform the duties of the office.

(b) The county fire marshal may not be directly or indirectly interested in the sale of fire-fighting equipment and may not be engaged in any type of fire insurance business.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.0125. CERTIFICATION REQUIREMENTS IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of 100,000 or more.

(b) A county fire marshal shall hold the following certifications issued by the Texas Commission on Fire Protection:

(1) head of a prevention-only fire department certification not later than 12 months after the date the marshal is initially appointed;

(2) a fire marshal basic certification not later than 24 months after the date the marshal is initially appointed; and

(3) a fire protection personnel certification not later than 12 months after the date the marshal is initially appointed.

(c) If acting as a peace officer, a county fire marshal and any related officer, inspector, and investigator must hold a permanent peace officer license issued under Chapter 1701, Occupations Code.

(d) If acting under fire marshal authority to conduct or supervise arson investigations or fire inspections, a county fire marshal or the marshal's employees must hold certifications required for fire inspection by the Texas Commission on Fire Protection under Chapter 419, Government Code.

Added by Acts 2025, 89th Leg., R.S., Ch. 443 (H.B. 3687), Sec. 2, eff. September 1, 2025.

Sec. 352.013. INVESTIGATION OF FIRES. (a) The county fire marshal shall:

(1) investigate the cause, origin, and circumstances of fires that occur within the county but outside the municipalities in the county and that destroy or damage property or cause injury; and

(2) determine whether a fire was the result of negligent or intentional conduct.

(b) The commissioners court of a county, with the advice of the county fire marshal, shall adopt rules and procedures for determining which fires warrant investigation by the county fire marshal. The county fire marshal shall begin an investigation within 24 hours after the receipt of information regarding a fire that warrants investigation under commissioners court rules and procedures. The 24-hour period does not include a Sunday.

(c) In the performance of official duties, the county fire marshal, at any time of day, may enter and examine a structure where a fire has occurred and may examine adjacent premises.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 1, eff. Sept. 1, 2003.

Sec. 352.014. RECORD OF INVESTIGATION. The county fire marshal shall keep a record of each fire that the marshal is required to investigate. The record must include the facts, statistics, and circumstances determined by the investigation, including the origin of the fire and the estimated amount of the loss. Each fire department and state or local agency that provides emergency medical services must submit reports requested by the county fire marshal in a timely manner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 64, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 371, Sec. 1, eff. Sept. 1, 2003.

Sec. 352.015. ARSON INVESTIGATION. (a) If the county fire marshal determines that further investigation of a fire or of an attempt to set a fire is necessary, the marshal may:

(1) subpoena witnesses to testify regarding the fire or attempt;

(2) administer oaths to the witnesses;

(3) take and preserve written statements, affidavits, and depositions; and

(4) require the production of an instrument that is pertinent to the investigation.

(b) The county fire marshal shall file in a court of competent jurisdiction a complaint charging arson, attempted arson, conspiracy to defraud, or any other crime against a person the marshal believes to be guilty.

(c) The county fire marshal shall file charges under Section 352.021 in a court of competent jurisdiction against a witness who refuses to cooperate with the investigation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.016. INSPECTION OR REVIEW OF PLAN FOR FIRE OR LIFE SAFETY HAZARDS. (a) In this section, "fire or life safety hazard" means any condition that endangers the safety of a structure or its occupants and promotes or causes fire or combustion, including:

(1) the presence of a flammable substance;

(2) a dangerous or dilapidated wall, ceiling, or other structural element;

(3) improper electrical components, heating, or other building services or facilities;

(4) the presence of a dangerous chimney, flue, pipe, main, or stove, or of dangerous wiring;

(5) dangerous storage, including storage or use of hazardous substances; or

(6) inappropriate means of egress, fire protection, or other fire-related safeguard.

(b) In the interest of safety and fire prevention, the county fire marshal may inspect for fire or life safety hazards any structure, appurtenance, fixture, or real property located within 500 feet of a structure, appurtenance, or fixture. The marshal shall inspect a structure for fire or life safety hazards if called on to do so. In the absence of a county fire code, the county fire marshal may conduct an inspection using any nationally recognized code or standard adopted by the state. If the marshal determines the presence of a fire or life safety hazard, the marshal may order the

owner or occupant of the premises to correct the hazardous situation. If ordered to do so, an owner or occupant shall correct the hazardous situation in accordance with the order.

(b-1) In the interest of safety and fire prevention, the county fire marshal shall, if required, and may, if requested, review the plans of a business, single-family residence, multi-family dwelling, or commercial property for fire or life safety hazards.

(c) The commissioners court by order may authorize the county fire marshal to charge a fee to the owner of a business, a multi-family dwelling, or commercial property for a plan review or inspection conducted under this section in a reasonable amount determined by the commissioners court to cover the cost of the plan review or inspection.

(d) The commissioners court by order may authorize the county fire marshal to charge a fee to the owner of a single-family residence for a plan review or inspection conducted under this section in a reasonable amount determined by the commissioners court to cover the cost of the plan review or inspection, if the plan review or inspection is requested by the owner of the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 358, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 760, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 851, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 371, Sec. 1, eff. Sept. 1, 2003.

Sec. 352.0165. INSPECTION OF GROUP HOMES IN CERTAIN COUNTIES; FEE. (a) In this section:

(1) "Group home" means an establishment:

(A) in which three or more individuals who are unrelated to the owner or operator of the establishment reside;

(B) that provides residential care services to residents; and

(C) that receives payment or other compensation from a local, state, or federal governmental entity for providing residential care services to a resident.

(2) "Residential care services" means shelter, protection, meals, health care, mobility assistance, and personal care services, including bathing, dressing, and eating.

(b) This section applies only to a county with a population of 3.3 million or more.

(c) This section does not apply to a building owned or operated by:

(1) a person that is required to be licensed under Chapter 142, 242, 246, 247, or 252, Health and Safety Code;

(2) a person that is exempt from licensing under Section 142.003(a)(19), 242.003(3), or 247.004(4), Health and Safety Code;

(3) a hotel as defined by Section 156.001, Tax Code;

(4) a retirement community;

(5) a monastery or convent;

(6) a child-care facility as defined by Section 42.002, Human Resources Code;

(7) a family violence shelter center as defined by Section 51.002, Human Resources Code; or

(8) a sorority or fraternity house or other dormitory associated with an institution of higher education.

(d) On the complaint of any person, the county fire marshal, at any reasonable time, may enter:

(1) a building in the county in which a group home is operated; and

(2) the premises of a building described by Subdivision (1).

(e) The county fire marshal shall order the removal of a building in which a group home is located, the removal of a structure located on the premises of a building in which a group home is located, or other remedial action if the marshal finds that:

(1) the building or structure, because of lack of repair, age, dilapidated condition, or other reason, is susceptible to fire and is so located or occupied that fire would endanger persons or property in the building or structure or on the premises of the building or structure;

(2) a dangerous condition is created by:

(A) an improper arrangement of stoves, ranges, furnaces, or other heating appliances, including chimneys, flues, and pipes with which they are connected, or by their lighting systems or devices; or

(B) the manner of storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, or combustible, flammable, or refuse materials; or

(3) any other condition exists that is dangerous or is liable to cause or promote fire or create danger for firefighters, occupants, or other buildings or structures.

(f) The person to whom an order under Subsection (e) is directed shall immediately comply with the order. The marshal may, if necessary, apply to a court of competent jurisdiction for writs or orders necessary to enforce this section, and the court may grant appropriate relief. The marshal is not required to give a bond.

(g) The commissioners court of a county may adopt any appropriate standard developed by a nationally recognized standards-making association under which the county fire marshal may enforce this section, except that standards adopted under this subsection do not apply in a municipality that has adopted fire protection ordinances.

(h) The commissioners court of a county shall prescribe a reasonable fee for an inspection performed by the county fire marshal that may be charged to a property owner or occupant who requests the inspection, as the commissioners court considers appropriate. In prescribing the fee, the commissioners court shall consider the overall cost to the marshal to perform the inspections, including the approximate amount of time the staff of the marshal needs to perform an inspection, travel costs, and other expenses.

Added by Acts 2021, 87th Leg., R.S., Ch. 473 (S.B. 504), Sec. 1, eff. September 1, 2021.

Sec. 352.017. PRIVACY OF EXAMINATIONS; SERVICE OF PROCESS. (a) In a proceeding under this subchapter, the county fire marshal may:

(1) conduct an investigation or examination in private;

(2) exclude a person who is not under examination; and

(3) separate witnesses from each other until each witness is examined.

(b) Service of process required by this subchapter shall be made by a peace officer and shall be signed by the county fire marshal or the fire marshal's deputy.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 2, eff. Sept. 1, 2003.

Sec. 352.018. EFFECT ON CIVIL ACTIONS. (a) An action taken by a county fire marshal in the investigation of a fire does not affect the rights of a policyholder or of any company regarding a loss caused by the fire.

(b) The result of an investigation by the county fire marshal of a fire may not be admitted in evidence in the trial of a civil action brought under the insurance policy.

(c) The statement of an insurance company, the company's officers, agents, or adjusters, or of a policyholder or the policyholder's representative, that is made to the county fire marshal or his representative with respect to the origin or cause or supposed origin or cause of the fire may not be admitted in evidence in or made the basis of a civil action for damages.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.019. COOPERATION WITH OTHER FIRE PROTECTION AGENCIES; TRAINING FOR FIRST RESPONDERS. (a) The county fire marshal shall enforce all state and county regulations that relate to fires, explosions, or damages of any kind caused by a fire or explosion.

(b) The county fire marshal shall coordinate the work of the various fire-fighting and fire prevention units in the county. On request, the county fire marshal may assist a rural fire prevention district or emergency services district located wholly or partially in the county to accomplish its powers and duties.

(b-1) If the commissioners court establishes procedures for firefighter certification under Subsection (b), the commissioners court must ensure that the procedures are at least as stringent as the minimum qualifications set by the Texas Commission on Fire Protection under Section 419.032, Government Code. This subsection does not apply to a volunteer firefighter as defined by Section 419.001, Government Code.

(c) The county fire marshal or the county fire marshal's designee may perform as the incident commander in a major event if the incident commander of the responsible fire department consents. The county fire marshal may not enforce orders and decrees within a municipality in the county unless specifically required to do so by interlocal agreement and may act in a cooperative and advisory capacity there only on request.

(d) The county fire marshal shall cooperate with the state fire marshal to conduct fire prevention and fire-fighting activities or postfire investigations. The county fire marshal shall aid or conduct an investigation in a municipality if requested by the state fire marshal, the municipality, or the fire chief of the municipality.

(e) A county commissioners court may authorize the fire marshal to provide training programs relating to fire-fighting and fire prevention and operate a training facility for first responders in the county. The county may establish and collect a reasonable fee for the training programs, use of the facility, and services provided by the facility. In this subsection, "first responder" has the meaning assigned by Section 421.095, Government Code.

(f) The commissioners court and county fire marshal may jointly adopt voluntary guidelines, including voluntary funding guidelines, for fire departments located in unincorporated areas of the county, including fire departments located within rural fire prevention districts or emergency services districts, regarding participation in the Texas Fire Incident Reporting System (TXFIRS) or the National Fire Incident Reporting System (NFIRS), or both. The commissioners court may establish model procedures for voluntary use by the various fire departments in the county with respect to:

(1) emergency incident management;

(2) firefighter certification; and

(3) automatic mutual aid.

(g) If a commissioners court authorizes a fire marshal to provide training programs and operate a training facility under Subsection (e), the fire marshal must ensure that the training programs and operation of the training facility are at least as stringent as the minimum qualifications set by the Texas Commission on Fire Protection under Section 419.032, Government Code. This subsection does not apply to a volunteer firefighter as defined by Section 419.001, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 3, eff. Sept. 1, 2003. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 387 (H.B. 3753), Sec. 1, eff. June 2, 2019.

Acts 2019, 86th Leg., R.S., Ch. 387 (H.B. 3753), Sec. 2, eff.

June 2, 2019.

Sec. 352.020. LIABILITY. The county fire marshal and the assistants and employees of the office are not liable in damages for any acts or omissions in the performance of their duties except in cases of gross negligence or wilful malfeasance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.021. CONTEMPT OF FIRE INVESTIGATION PROCEEDINGS. (a) A person commits an offense if the person is a witness in connection with an investigation under Section 352.015 and refuses to be sworn, refuses to appear and testify, or fails and refuses to produce before the county fire marshal any book, paper, or other document relating to any matter under investigation if called on by the marshal to do so.

(a-1) A person commits an offense if the person is the owner of property subject to an investigation under Section 352.015 and the person refuses to be sworn, refuses to appear and testify, or fails and refuses to produce before the county fire marshal any book, paper, or other document relating to any matter under investigation if called on by the marshal to do so.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than $2,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 4, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 960 (H.B. 1634), Sec. 2, eff. September 1, 2005.

Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. An owner or occupant who is subject to an order issued under Section 352.016 or 352.0165 commits an offense if that person fails to comply with the order. Each refusal to comply is a separate offense. The offense is a Class B misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted two or more times under this section, in which event the offense is a state

jail felony.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 5, eff. Sept. 1, 2003. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 473 (S.B. 504), Sec. 2, eff. September 1, 2021.

Sec. 352.023. EXEMPTION. This subchapter does not apply to a state agency that is authorized to prevent and extinguish forest and grass fires.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.024. AUTHORITY TO COMMISSION CERTAIN FIRE PROTECTION OFFICERS AS PEACE OFFICERS. (a) A county may commission a fire marshal, fire officer, fire inspector, or fire investigator as a peace officer.

(b) A peace officer commissioned under this section may:

(1) administer this chapter;

(2) support fire-related operations or investigations;

(3) enforce building-related codes, including codes involving hazardous materials; and

(4) make recommendations involving building safety.

Added by Acts 2025, 89th Leg., R.S., Ch. 511 (S.B. 2143), Sec. 1, eff. September 1, 2025.

SUBCHAPTER C. FIREWORKS

Sec. 352.051. REGULATION OF RESTRICTED FIREWORKS. (a) For the purposes of this section the following definitions shall apply:

(1) "Restricted fireworks" means only those items classified under 49 C.F.R. Sec. 173.100(r)(2) (10-1-86 edition), as "skyrockets with sticks" and "missiles with fins".

(2) "Drought conditions" means the existence immediately preceding or during the fireworks season of a Keetch-Byram Drought Index of 575 or greater.

(b)(1) The Texas A&M Forest Service in the ordinary course of

its activities shall determine whether drought conditions, as defined under Subsection (a)(2), exist on average in any county requesting such a determination. The Texas A&M Forest Service shall make available the measurement index guidelines used to determine whether drought conditions exist in a particular area. Following any determination that such drought conditions exist, the Texas A&M Forest Service shall notify said county or counties when such drought conditions no longer exist. The Texas A&M Forest Service shall make its services available each day during the Texas Independence Day, San Jacinto Day, Memorial Day, Juneteenth, Fourth of July, Diwali, and December fireworks seasons to respond to the request of any county for a determination whether drought conditions exist on average in the county.

(2) The Texas A&M Forest Service shall be allowed to take such donations of equipment or funds as necessary to aid in the carrying out of this section.

(c) Upon a determination under this section that drought conditions exist on average in a specified county, the commissioners court of the county by order may prohibit or restrict the sale or use of restricted fireworks in the unincorporated area of the county. In addition, during the December fireworks season, the commissioners court of a county by order may restrict or prohibit the sale or use of restricted fireworks in specified areas when conditions on rural acreage in the county not under cultivation for a period of at least 12 months are determined to be extremely hazardous for the danger of fire because of high grass or dry vegetation.

(d) To facilitate compliance with an order adopted under Subsection (c), the order must be adopted before:

(1) February 15 of each year for the Texas Independence Day fireworks season;

(2) April 1 of each year for the San Jacinto Day fireworks season;

(3) April 25 of each year for the Cinco de Mayo fireworks season;

(4) May 15 of each year for the Memorial Day fireworks season;

(5) June 1 of each year for the Juneteenth fireworks season;

(6) June 15 of each year for the Fourth of July fireworks season;

(7) 15 days before the beginning of Diwali for the Diwali fireworks season; and

(8) December 15 of each year for each December fireworks season.

(e) An order issued under this section shall expire upon determination as provided under Subsection (b) that such drought conditions no longer exist.

(f) When a county issues an order restricting or prohibiting the sale or use of restricted fireworks under this section, the county may designate one or more areas of appropriate size and accessibility in the county as safe areas where the use of restricted fireworks is not prohibited, and the legislature encourages a county to designate such an area for that purpose. The safe area may be provided by the county, a municipality within the county, or an individual, business, or corporation. A safe area may be designated in and provided in the geographic area of the regulatory jurisdiction of a municipality if the activity conducted in the safe area is authorized by general law or a municipal regulation or ordinance. An area is considered safe if adequate public safety and fire protection services are provided to the area. A county, municipality, individual, business, or corporation is not liable for injuries or damages resulting from the designation, maintenance, or use of the safe area.

(g) A person selling any type of fireworks, including restricted fireworks, in a county that has adopted an order under Subsection (c) shall, at every location at which the person sells fireworks in the county, provide reasonable notice of the order and reasonable notice of any location designated under Subsection (f) as a safe area.

(h) An affected party is entitled to injunctive relief to prevent the violation or threatened violation of a requirement or prohibition established by an order adopted under this section.

(i) A person commits an offense if the person knowingly or intentionally violates a prohibition established by an order issued under this section. An offense under this subsection is a Class C misdemeanor.

(j) A civil action against a county based on the county's actions under this section must be brought in the appropriate court in that county.

Added by Acts 1991, 72nd Leg., ch. 865, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 500, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1399, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1244, Sec. 1 to 3, eff. Sept. 1, 1999. Renumbered from Sec. 240.904 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.004, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1179 (H.B. 539), Sec. 7, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 710 (H.B. 1150), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 710 (H.B. 1150), Sec. 3, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 475 (H.B. 608), Sec. 2, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 169 (H.B. 554), Sec. 2, eff. May 26, 2025.

SUBCHAPTER D. OUTDOOR BURNING

Sec. 352.081. REGULATION OF OUTDOOR BURNING. (a) In this section, "drought conditions" means the existence of a long-term deficit of moisture creating atypically severe conditions with increased wildfire occurrence as defined by the Texas Forest Service through the use of the Keetch-Byram Drought Index or, when that index is not available, through the use of a comparable measurement that takes into consideration the burning index, spread component, or ignition component for the particular area.

(b) On the request of the commissioners court of a county, the Texas Forest Service shall determine whether drought conditions exist in all or part of the county. The Texas Forest Service shall make available the measurement index guidelines that determine whether a particular area is in drought condition. Following a determination that drought conditions exist, the Texas Forest Service shall notify the county when drought conditions no longer exist. The Texas Forest Service may accept donations of equipment or funds as necessary to aid the Texas Forest Service in carrying out this section.

(c) The commissioners court of a county by order may prohibit or restrict outdoor burning in general or outdoor burning of a particular substance in all or part of the unincorporated area of the

county if:

(1) drought conditions have been determined to exist as provided by Subsection (b); or

(2) the commissioners court makes a finding that circumstances present in all or part of the unincorporated area create a public safety hazard that would be exacerbated by outdoor burning.

(d) An order adopted under this section must specify the period during which outdoor burning is prohibited or restricted. The period may not extend beyond the 90th day after the date the order is adopted. A commissioners court may adopt an order under this section that takes effect on the expiration of a previous order adopted under this section.

(e) An order adopted under this section expires, as applicable, on the date:

(1) a determination is made under Subsection (b) that drought conditions no longer exist; or

(2) a determination is made by the commissioners court, or the county judge or fire marshal if designated for that purpose by the commissioners court, that the circumstances identified under Subsection (c)(2) no longer exist.

(f) This section does not apply to outdoor burning activities:

(1) related to public health and safety that are authorized by the Texas Commission on Environmental Quality for:

(A) firefighter training;

(B) public utility, natural gas pipeline, or mining operations; or

(C) planting or harvesting of agriculture crops; or

(2) that are conducted by a certified and insured prescribed burn manager certified under Section 153.048, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code.

(g) Any person is entitled to injunctive relief to prevent the violation or threatened violation of a prohibition or restriction established by an order adopted under this section.

(h) A person commits an offense if the person knowingly or intentionally violates a prohibition or restriction established by an order adopted under this section. An offense under this subsection is a Class C misdemeanor.

Added by Acts 1999, 76th Leg., ch. 1435, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1185, Sec. 1, eff. Sept. 1, 2001. Renumbered from Sec. 240.906 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.004, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 495 (H.B. 1174), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 20, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 565 (S.B. 702), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 169 (H.B. 2119), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1096 (H.B. 2053), Sec. 1, eff. September 1, 2019.

Sec. 352.082. OUTDOOR BURNING OF HOUSEHOLD REFUSE IN CERTAIN RESIDENTIAL AREAS. (a) This section applies only to the unincorporated area of a county:

(1) that is adjacent to a county with a population of 3.3 million or more; and

(2) in which a planned community is located that has 20,000 or more acres of land, that was originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to restrictive covenants containing ad valorem or annual variable budget based assessments on real property.

(b) In this section, "neighborhood" and "refuse" have the meanings assigned by Section 343.002, Health and Safety Code.

(c) A person commits an offense if the person intentionally or knowingly burns household refuse outdoors on a lot that is:

(1) located in a neighborhood; or

(2) smaller than five acres.

(d) An offense under this section is a Class C misdemeanor. On conviction of an offense under this section, the court shall require the defendant, in addition to any fine, to perform community service as provided by Article 42A.304(e), Code of Criminal Procedure.

Added by Acts 2005, 79th Leg., Ch. 904 (H.B. 39), Sec. 2, eff.

September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.78, eff. January 1, 2017.

SUBCHAPTER E. GATED COMMUNITIES AND MULTI-UNIT HOUSING PROJECTS

Sec. 352.111. GATED COMMUNITY OR HOUSING PROJECT SUBJECT TO SUBCHAPTER. This subchapter applies only to a gated community, or to a multi-unit housing project that controls access to the project by a pedestrian or vehicular gate, located outside municipal boundaries in an area not already subject to municipal regulations regarding vehicular or pedestrian gates.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 681 (S.B. 200), Sec. 2, eff. June 17, 2005.

Sec. 352.112. DEFINITIONS. In this subchapter:

(1) "Gated community" means a residential subdivision or housing development with a vehicular or pedestrian gate that contains two or more dwellings not under common ownership. The term does not include a multi-unit housing project.

(2) "Multi-unit housing project" means an apartment, condominium, or townhome project that contains two or more dwelling units.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 681 (S.B. 200), Sec. 3, eff. June 17, 2005.

Sec. 352.113. COUNTY AUTHORITY TO REGULATE VEHICULAR OR PEDESTRIAN GATES TO GATED COMMUNITIES AND MULTI-UNIT HOUSING PROJECTS. To assure reasonable access for fire-fighting vehicles and equipment, emergency medical services vehicles, and law enforcement officers, a county may require the owner or the owners association of a gated community or multi-unit housing project to comply with this

subchapter.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 681 (S.B. 200), Sec. 4, eff. June 17, 2005.

Sec. 352.114. LOCKBOX REQUIREMENTS. (a) Each vehicular gate to the gated community or multi-unit housing project must have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, or code to open the gate or a key switch or cable mechanism that overrides the key, card, or code that normally opens the gate and allows the gate to be opened manually.

(b) If there are one or more pedestrian gates, at least one pedestrian gate must have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, code, key switch, or cable mechanism to open the gate.

(c) If different pedestrian gates are operated by different keys, cards, or codes, the lockbox must contain:

(1) each key, card, or code, properly labeled for its respective gate; or

(2) a single master key, card, or code or a key switch or cable mechanism that will open every gate.

(d) Access to a lockbox required by this section shall be limited to a person or agency providing fire-fighting or emergency medical services or law enforcement for the county.

(e) If a gate is powered by electricity, it must be possible to open the gate without a key, card, code, or key switch if the gate loses electrical power.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 681 (S.B. 200), Sec. 5, eff. June 17, 2005.

Sec. 352.1145. SIREN-OPERATED SENSOR SYSTEMS FOR ELECTRIC GATES. The commissioners court of a county by order may require that

each electric gate to a gated community or multiunit housing project be equipped with a gate-operating device that:

(1) is approved by the county fire marshal or other similar authority having jurisdiction over fire prevention; and

(2) will activate the electric gate on the sounding of an emergency vehicle siren.

Added by Acts 2009, 81st Leg., R.S., Ch. 620 (H.B. 1063), Sec. 1, eff. September 1, 2009.

Sec. 352.115. ADDITIONAL ACCESSIBILITY REQUIREMENTS. (a) In a gated community or multi-unit housing project that has one or more vehicular gates:

(1) at least one vehicular gate must be wide enough for fire-fighting vehicles, fire-fighting equipment, emergency medical services vehicles, or law enforcement vehicles to enter; and

(2) at least one driveway apron or entrance from the public right-of-way must be free of permanent obstacles that might impede entry by a vehicle or equipment listed in Subdivision (1).

(b) The county fire marshal or other authority shall waive the vehicular gate width requirements of Subsection (a) for a multi-unit housing project completed before January 1, 2002, if the requirements cannot readily be met because of space limitations or excessive cost. For purposes of this subsection, $6,000 per entrance based on the value of the dollar on January 1, 2000, is considered an excessive cost for expanding gate width and achieving an obstacle-free driveway apron or entrance.

(c) A pedestrian gate in a gated community or multi-unit housing project must be located so as to provide firefighters, law enforcement officers, and other emergency personnel reasonable access to each building.

(d) This section does not require a multi-unit housing project to have a vehicular gate or a pedestrian gate.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 681 (S.B. 200), Sec. 6, eff. June 17, 2005.

Sec. 352.116. BUILDING IDENTIFICATION. A county may require each residential building in a multi-unit housing project to have a number or letter in a contrasting color on the side of the building and placed so that the number or letter can be seen from the vehicular driving areas by a responding emergency agency.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001.

Sec. 352.117. COUNTY AUTHORITY TO REQUIRE PERMIT. (a) A county may require the owner or the owners association of a gated community or multi-unit housing project to obtain a permit from the county fire marshal or other authority with fire-fighting jurisdiction in the county to ensure compliance with this subchapter.

(b) A permit may be issued under this subchapter only if the requirements of this subchapter and standards adopted under this subchapter are met.

(c) To pay for the cost of administering the permits, the county may collect a one-time fee not to exceed $50 from each person to whom a permit is issued under this section.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 681 (S.B. 200), Sec. 7, eff. June 17, 2005.

Sec. 352.118. SUSPENSION OR REVOCATION OF LICENSE. (a) A permit issued under this subchapter may be suspended or revoked for violation of this subchapter or a regulation adopted under this subchapter after notice and a hearing on a complaint by the county fire marshal or other authority having jurisdiction for fire fighting, emergency medical service, or law enforcement. The hearing shall be held by the commissioners court of the county or by a person or entity designated by the commissioners court.

(b) A permit may be reinstated or a new permit issued if each violation that is a ground of the complaint is corrected within the time prescribed by the entity that holds the hearing.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001.

Sec. 352.119. LIMITATION ON SPECIFIC COUNTY STANDARDS. (a) A county may not impose under this subchapter specific standards relating to vehicular gate widths, obstacle-free driveway aprons or entrances, pedestrian gate locations, or building numbers that exceed the requirements for new gated communities or new multi-unit housing projects contained in the municipal ordinances of:

(1) the municipality within whose extraterritorial jurisdiction the gated community or multi-unit housing project is located; or

(2) the municipality nearest, on a straight line, to the boundary of the gated community or multi-unit housing project, if the community or project is not within the extraterritorial jurisdiction of a municipality.

(b) The county fire marshal or other authority with fire-fighting jurisdiction may adopt reasonable standards relating to vehicular gate width, obstacle-free driveway aprons or entrances, pedestrian gate locations, and building numbers if the appropriate municipality described by Subsection (a) has not adopted applicable standards.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 681 (S.B. 200), Sec. 8, eff. June 17, 2005.

Sec. 352.120. OFFENSE. A person who violates this subchapter or a regulation adopted under this subchapter in a county that requires compliance with this subchapter under Section 352.113 commits an offense. An offense under this section is a Class C misdemeanor.

Added by Acts 2001, 77th Leg., ch. 111, Sec. 1, eff. Sept. 1, 2001.

CHAPTER 353. COUNTY HAZARDOUS MATERIALS SERVICES

Sec. 353.001. DEFINITIONS. In this chapter:

(1) "Concerned party" means a person:

(A) involved in the possession, ownership, or transportation of a hazardous material that is released or abandoned; or

(B) who has legal liability for the causation of an incident resulting in the release or abandonment of a hazardous material.

(2) "Hazardous material" means a flammable material, an explosive, a radioactive material, a hazardous waste, a toxic substance, or related material, including a substance defined as a "hazardous substance," "hazardous material," "toxic substance," or "solid waste" under:

(A) the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.);

(B) the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.);

(C) the federal Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.);

(D) the federal Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.); or

(E) Chapter 361, Health and Safety Code.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff. September 1, 2005.

Sec. 353.002. APPLICABILITY. This chapter applies to an incident involving hazardous material that has been leaked, spilled, released, or abandoned on any property.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff. September 1, 2005.

Sec. 353.003. HAZARDOUS MATERIALS SERVICES. (a) A county may provide hazardous materials services, including a response to an incident involving hazardous material that has been leaked, spilled, released, or abandoned, if:

(1) the county first provides reasonable notice to a concerned party regarding the need for the hazardous materials

services so that the concerned party has a reasonable opportunity to respond to the incident involving hazardous material; and

(2) the concerned party fails to respond or fails to respond in a timely and effective manner to the incident.

(b) A county may provide limited control and containment measures that are necessary to protect human health and the environment without first complying with the requirements of Subsection (a) if the county is the first entity to arrive at a site where an incident involving hazardous material has occurred that is prepared to take action in response to the incident.

(c) If the hazardous material is natural gas released from an underground facility as defined by Section 251.002, Utilities Code, the county:

(1) must comply with the requirements of Section 251.159, Utilities Code; and

(2) may not operate any equipment or other controls or devices at the underground facility without the express permission of the operator of the facility.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff. September 1, 2005.

Sec. 353.004. FEE FOR PROVIDING HAZARDOUS MATERIALS SERVICE; EXCEPTION. (a) A county, or a person authorized by contract on the county's behalf, may charge a reasonable fee, including a fee to offset the cost of providing control and containment measures under Section 353.003(b), to a concerned party for responding to a hazardous materials service call.

(b) A county, or a person authorized by contract on the county's behalf, may charge a fee for providing hazardous materials services under Section 353.003(a) only if the county has complied with the requirements of that subsection. A concerned party is not liable for a fee associated with the county's hazardous materials services under Section 353.003(a) or a fee to offset the cost of providing control and containment measures under Section 353.003(b) if the county provides hazardous materials services under Section 353.003(a) and the county does not provide notice as required by

Section 353.003(a)(1).

(c) An individual who is a concerned party does not have to pay a fee under this section if:

(1) the individual is not involved in the possession, ownership, or transportation of the hazardous material as the employee, agent, or servant of another person;

(2) the individual is involved solely for private, noncommercial purposes related to the individual's own property and the individual receives no compensation for any services involving the hazardous materials; and

(3) the hazardous materials possessed, owned, or being transported by the individual are in forms, quantities, and containers ordinarily available for sale as consumer products to members of the general public.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff. September 1, 2005.

Sec. 353.005. EXEMPTION FOR GOVERNMENTAL ENTITIES. This chapter does not apply to hazardous materials owned or possessed by a governmental entity.

Added by Acts 2005, 79th Leg., Ch. 930 (H.B. 580), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 33, eff. September 1, 2005.

SUBTITLE C. PUBLIC SAFETY PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 361. MUNICIPAL AND COUNTY AUTHORITY RELATING TO JAILS

SUBCHAPTER A. CRIMINAL JUSTICE CENTER IN CERTAIN MUNICIPALITIES AND COUNTIES

Sec. 361.001. MUNICIPALITIES AND COUNTIES COVERED BY SUBCHAPTER. This subchapter applies only to:

(1) a municipality that has a population of more than 17,500 and is not the county seat; and

(2) the county in which that municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.002. CRIMINAL JUSTICE CENTER; OFFICE RESTRICTION INAPPLICABLE. (a) The municipality and county jointly or severally may own, construct, equip, enlarge, and maintain as a criminal justice center one or more buildings located in the municipality.

(b) The criminal justice center must provide public facilities related or incidental to the administration of criminal justice and may include:

(1) accommodations for the handling, processing, and detention of prisoners;

(2) offices for state, county, and municipal administrative and judicial officials;

(3) courtrooms; and

(4) parking facilities.

(c) A county officer may maintain office facilities in the criminal justice center in addition to any office facilities maintained at the county seat, notwithstanding Section 291.002 or any other law that restricts the location of county offices to the county seat of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.003. CONTRACT PROVISIONS RELATING TO JOINT CENTER. (a) If the municipality and county agree to jointly provide a criminal justice center, they may specify by contract the purposes, terms, rights, and responsibilities of each of the parties, including the:

(1) amount of money to be contributed by each party for land acquisition costs, building acquisition costs, construction costs, and equipment costs, or the proportionate amount of those costs that each party is to pay;

(2) method or methods by which that money is to be provided;

(3) account or accounts in which the money is to be deposited;

(4) party that is to award construction contracts and other contracts, or that the contracts are to be awarded by action of both

parties; and

(5) manner by which disbursements of the money are to be authorized.

(b) The municipality and county may specify in the contract that the money required to meet the costs of providing the center shall be derived:

(1) from current income and funds on hand that are budgeted by the municipality and county for that purpose;

(2) through the issuance of bonds by either or both of them under the procedures prescribed for the issuance of general obligation bonds for other public buildings and purposes;

(3) by the issuance by either or both of them of certificates of obligation under the Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271); or

(4) through a combination of those methods.

(c) Instead of or in combination with the use of taxing power in the payment of bonds or certificates of obligation issued under Subsection (b), those bonds or certificates may be payable from and secured by income derived from the facilities of the criminal justice center, including income from leases and from the proceeds of parking or other fees.

(d) The contract may provide for the creation of an administrative agency or may designate one of the parties to supervise the accomplishment of the purposes of the contract and to operate and maintain the criminal justice center. The administrative agency or designated party may employ personnel and may engage in other administrative activities as necessary to accomplish the purposes of the contract and to operate and maintain the criminal justice center.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.004. GRANTS AND LOANS. To finance the facilities of the criminal justice center, the municipality or county jointly or severally may accept grants, gratuities, advances, and loans from the United States, this state, an agency of this state, a private or public corporation, or any other person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. JUSTICE CENTERS LOCATED ON STATE LINE

Sec. 361.021. DEFINITION. In this subchapter, "law" means a state statute, a written opinion of a court of record, a municipal ordinance, an order of the commissioners court of a county, or a rule adopted under a statute.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.022. CONTRACT TO PROVIDE JUSTICE CENTER. (a) A county in this state and a municipality in that county, both of which are located on the state line, may contract with an adjoining county of the other state and any municipality in that county for the joint construction, financing, operation, and management of a justice center located on the state line. The municipality in this state need not be the county seat of the county.

(b) The contract may provide that the justice center contain:

(1) courtrooms and office space needed by municipal, justice, county, district, and appellate courts;

(2) jail, lockup, jail annex, and other detention facilities;

(3) federal, county, precinct, and municipal offices for prosecuting attorneys and other personnel as needed;

(4) adult or juvenile probation offices;

(5) other offices that either county or either municipality is separately authorized or required to operate or provide; or

(6) parking facilities, dining areas, and other facilities incidental to the operation of the center.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 17, Sec. 1, eff. April 2, 1993.

Sec. 361.023. CONTRACTUAL AUTHORITY CONTINGENT ON LEGISLATION OF OTHER STATE. A county or municipality in this state may make the contract only if the other state enacts legislation that relates to the establishment of a justice center under a contract and that:

(1) assigns responsibility for the operation of the detention facilities in the center in the manner required by Section 361.026;

(2) provides for the application and enforcement of the law

of both states in the manner provided by Section 361.028;

(3) contains provisions authorizing the arrest, prosecution, transfer, and control of persons as prescribed by Sections 361.029(a)(2), (d), (e), and (f)(2);

(4) authorizes peace officers to take the actions authorized by Sections 361.029(j) and (k); and

(5) provides that:

(A) a person in custody in the center under the law of this state may not be prosecuted for an offense against the law of the other state without extradition and may not be personally served with process in the center for a proceeding in the other state;

(B) a person summoned to appear in the center under the law of this state may not be personally served with process in any part of the center for a proceeding in the other state; and

(C) a person summoned to appear in the center under the law of this state may not be arrested in any part of the center for an offense against the law of the other state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.024. FINANCING OF JUSTICE CENTER. The governing body of the municipality or county in this state that makes the contract may finance its share of the construction, operation, management, or other financing costs of the justice center by any means, including the use of available federal funds, that the governing body may use to finance the type of facilities that the municipality or county will use in or provide to the center.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.025. MANAGEMENT OF JUSTICE CENTER; PERSONNEL. (a) The contracting parties may specify in the contract the manner of determining the persons responsible for the:

(1) operation, alteration, maintenance, cleaning, and repair of the justice center facilities;

(2) employment of the center personnel;

(3) purchase of materials, supplies, tools, and other equipment to be jointly used by offices provided or used by the contracting parties;

(4) preparation of reports to be made to the governing bodies of the contracting parties;

(5) joint record-keeping, communications, or dispatch systems; and

(6) performance of any other powers or duties relating to the operation of the center.

(b) The contracting parties may provide in the contract the manner of determining the personnel policies and employment benefit programs for personnel of the justice center.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.026. RESPONSIBILITY FOR OPERATION OF JAIL. The contract must provide:

(1) that the sheriffs of the two counties are jointly responsible for the operation of any jail, lockup, jail annex, or other detention facility in the justice center and for the custody, care, and treatment of persons in custody in that facility; or

(2) for the employment of a jailer who shall exercise those responsibilities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 17, Sec. 2, eff. April 2, 1993.

Sec. 361.027. COURTROOMS AND COURT PROCEEDINGS AT JUSTICE CENTER. (a) A court of appeals or a district, county, justice, or municipal court with jurisdiction in the county or municipality in which a part of the justice center is located may maintain offices and courtrooms and may hold proceedings at the center, except that:

(1) only a justice court for the precinct in which the part of the justice center in this state is located may maintain an office and courtroom in the center; and

(2) a court of this state may not hold proceedings in the part of the center that is located in the other state.

(b) A court of the other state may hold proceedings in the part of the justice center that is located in this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.028. EXTENT TO WHICH EACH STATE'S LAW APPLIES AT JUSTICE CENTER. (a) Except as otherwise provided by this subchapter, the law of both states that relates to the rights, duties, liabilities, privileges, and immunities arising from conduct applies to conduct that occurs in any part of the justice center. If it is impossible for a person in the center to conform the person's conduct to the law of both states, the person may choose which state's law governs the conduct. If the person elects to follow the law of the other state, the conflicting law of this state does not apply to the conduct.

(b) The physical plant of the justice center and the equipment and facilities used by personnel of both states who are employed at the center are constructively located in both states.

(c) Except as provided by Subsection (d), property located in any part of the justice center that is owned by or is in the possession of a person who is in custody at, or who is summoned to appear in, the center, is constructively located in the state under the law of which the person was taken into custody or was summoned to appear.

(d) Subsection (a) applies to conduct committed in the justice center that constitutes an offense relating to the possession of property. Subsection (a) also applies to a person's exercise of a duty relating to property located in the justice center.

(e) Property that is ordered by a court to be produced in the justice center or that is in the possession of a peace officer or a party to a proceeding for use as evidence before a court holding a proceeding in the center is constructively located in the state in which the court has jurisdiction.

(f) Any property located in the justice center that is not covered by Subsection (c), (d), or (e) is constructively located in both states.

(g) The law of the state in which property is constructively located applies to that property to the same extent that that law would apply if the property were actually located in that state. If property is constructively located in only one state, the law of the state in which the property is not constructively located applies to that property only to the extent that the law of that state would apply if the property were actually located outside that state.

(h) Except as otherwise provided by this subchapter, the courts of both states have concurrent jurisdiction over the geographic area

covered by the justice center. However, the state in which a prosecution for an offense committed in the justice center is first instituted may exercise its jurisdiction to the exclusion of the other state's jurisdiction unless the prosecution is terminated without the attachment of jeopardy under the law of the state of the initial prosecution. For the purposes of this subsection, prosecution is instituted in this state on the filing of an indictment, an information, or a complaint. The attachment of jeopardy in this state is determined by Article 27.05, Code of Criminal Procedure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.029. ARREST, PROSECUTION, EXTRADITION, AND SERVICE OF PROCESS AT JUSTICE CENTER. (a) A person who is in the justice center in the custody, under the law of this state, of a peace officer or center personnel:

(1) is constructively present in this state while the person is in custody in the part of the center located in the other state;

(2) may be prosecuted for an offense against the law of this state without extradition; and

(3) may be personally served with process in any part of the center for a proceeding in this state.

(b) A person who is in the justice center in the custody, under the law of the other state, of a peace officer or center personnel:

(1) is constructively present in the other state while the person is in custody in the part of the center located in this state;

(2) may not be prosecuted for an offense against the law of this state without extradition; and

(3) may not be personally served with process in any part of the center for a proceeding in this state.

(c) This state agrees that a person who is in the justice center in the custody, under the law of the other state, of a peace officer or center personnel may be:

(1) prosecuted for an offense against the law of the other state without extradition; and

(2) personally served with process in any part of the center for a proceeding in the other state.

(d) Justice center personnel or a peace officer of either state may transfer across the state line in the center a person who is in custody in the center under the law of either state and may exercise control over the person on both sides of the state line.

(e) A person who is present in the justice center but who has not been confined in the center, taken to the center under arrest, or summoned to appear in the center, may be arrested without extradition in any part of the center for an offense against the law of either state. Extradition of a person arrested in the justice center under those circumstances is not required for prosecution of the person if the person is actually present in any part of the center or in the state of the prosecution at the time of the prosecution.

(f) A person who is summoned to appear in the justice center under the law of this state:

(1) is constructively present in this state while that person is appearing under the summons in the part of the center located in the other state;

(2) may be arrested in any part of the center for an offense committed against the law of this state and prosecuted for that offense without extradition if the person is actually present in any part of the center or in this state at the time of the prosecution; and

(3) may be personally served with process in any part of the center for a proceeding in this state.

(g) A person who is summoned to appear in the justice center under the law of the other state:

(1) is constructively present in the other state while that person is appearing under the summons in the part of the center located in this state;

(2) may not be arrested, without extradition, under the law of this state in any part of the center for an offense against the law of this state; and

(3) may not be personally served with process in any part of the center for a proceeding in this state.

(h) This state agrees that a person who is summoned to appear in the justice center under the law of the other state may be:

(1) arrested in any part of the center for an offense against the law of the other state and prosecuted for that offense without extradition if the person is actually present in any part of the center or in the other state at the time of the prosecution; and

(2) personally served with process in any part of the center for a proceeding in the other state.

(i) If a person in the justice center is constructively present in one state under this section, the law of the state in which the person is not constructively present may be applied to the person only to the extent that the law of that state would apply if the person were actually outside that state. However, the law applicable to that person's conduct while in the justice center is governed by Section 361.028, and the question of whether extradition is required to arrest or prosecute that person for an offense committed in the center is governed by this section.

(j) A peace officer of this state may:

(1) arrest a person under the law of this state in the part of the justice center located in the other state for an offense against the law of this state if that peace officer is authorized to make that arrest in the part of the center located in this state; and

(2) arrest a person under the law of the other state in any part of the center for an offense against the law of the other state if a peace officer of the other state is authorized to make that arrest in the part of the center located in the other state.

(k) This state agrees that a peace officer of the other state may:

(1) arrest a person under the law of this state in any part of the justice center for an offense against the law of this state if a peace officer of this state is authorized to make that arrest in the part of the center located in this state; and

(2) arrest a person under the law of the other state in the part of the justice center located in this state for an offense against the law of the other state if that peace officer is authorized to make that arrest in the part of the center located in the other state.

(l) Notwithstanding Sections 3 and 6, Article 51.13, Code of Criminal Procedure, the governor of this state may recognize a demand for the extradition of a person charged with a crime in the other state if the demand alleges that any element of the offense occurred in any part of the justice center.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. JOINT MUNICIPAL AND COUNTY JAIL FACILITIES IN CERTAIN COUNTIES

Sec. 361.041. MUNICIPAL-COUNTY JAIL FACILITIES IN COUNTY WITH POPULATION OF LESS THAN 20,000. (a) A county with a population of less than 20,000 and any municipality located within the county may finance, construct, maintain, and operate jail facilities for the joint use of the county and municipality. The governing body of the municipality and the commissioners court of the county by contract may determine each party's obligations relating to those actions and may provide for the custody, control, and operation of the jail facilities. The term of the contract may not exceed 20 years.

(b) The municipality and county may issue and sell bonds in the manner provided by law and may spend the proceeds of those bonds for the purposes authorized by this section. The bonds remain the sole obligations of the authority that issues them. Any funds derived from the sale of the bonds shall remain in the possession and control of the issuing authority until spent by that authority for the authorized purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 361.042. MUNICIPAL-COUNTY JAIL FACILITIES IN CERTAIN COUNTIES. (a) Instead of providing and maintaining its own jail, the commissioners court of a county with a population of 120,000 to 123,000 may provide safe and suitable jail facilities for the county by contracting for the facilities with the governing body of the municipality that is the county seat of the county.

(b) The contract must provide for:

(1) the incarceration, on a daily per capita basis, of the county's prisoners in the jail facilities owned by the municipality, with the daily per capita rate to be equal to the cost of maintaining a prisoner in the facilities or to be at an amount mutually agreed on by the parties;

(2) the lease to the county of a part of the municipally owned jail facilities, with payment under the lease to be at a rate based on the proportion of the total area of the facilities that is occupied by the county's prisoners; or

(3) the joint operation and maintenance of the municipally owned jail facilities for the mutual use and benefit of the county

and the municipality, with each party's obligations regarding the maintenance and operation of the facilities to be prescribed by the contract.

(c) The contract may provide for the custody, control, and operation of the jail facilities. The jail facilities must meet the requirements established by Subchapter A, Chapter 351.

(d) A contract made under Subsection (b)(2) or (3) may not exceed a term of 20 years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 101, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 103, 104, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 95, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 182, eff. September 1, 2023.

Sec. 361.043. JAILER FOR MUNICIPAL-COUNTY JAIL FACILITIES. (a) A contract made under Section 361.041 or 361.042 may provide for a jailer to be custodian of the jail facilities.

(b) The jailer is under the control and supervision of the sheriff of the county and shall be appointed by the sheriff with the advice and consent of the commissioners court of the county and the governing body of the municipality. The salary of the jailer shall be set in an amount equal to that of a deputy sheriff of the county and may be paid by the county and the municipality in proportionate amounts as provided by the contract.

(c) Except as otherwise provided by this section, the rights, duties, salary, and tenure of the jailer are controlled by the laws governing deputy sheriffs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. PROVISIONS FOR CORRECTIONAL FACILITIES

Sec. 361.051. DEFINITIONS. In this subchapter:

(1) "Credit agreement" means any one or more of a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance

contract, commitments to purchase obligations, purchase or sale agreements, or commitments or other contracts or agreements authorized and approved by the governing body of an entity in connection with the authorization, issuance, security, exchange, payment, purchase, or redemption of obligations. A credit agreement may include interest on an obligation.

(2) "Eligible project" means the acquisition, construction, equipping, or enlarging of facilities at any location in the state for, with relation to, or incidental in the administration of criminal justice, including, without limitation, correctional facilities or other accommodations for handling, processing, and detention of prisoners.

(3) "Entity" means a home-rule municipality or county or a nonprofit corporation acting on behalf of a home-rule municipality or county.

(4) "Lease obligation" means an obligation incurred by the Texas Board of Criminal Justice under Section 495.021, Government Code.

(5) "Obligations" means:

(A) certificates of obligation of an entity issued pursuant to this subchapter in the manner prescribed by the Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271);

(B) certificates of participation representing an undivided interest in a lease obligation;

(C) revenue bonds of an entity issued pursuant to this subchapter; or

(D) contractual obligations incurred by an entity under a lease agreement, lease-purchase agreement, purchase on an installment contract, or other agreement providing for the lease, lease-purchase, installment purchase, or other acquisition of title to an eligible project.

(6) "Project costs" means all costs and expenses incurred in relation to an eligible project, one or more, including without limitation design, planning, engineering, and legal costs; acquisition costs of land, interests in land, right-of-way, and easements; construction costs; costs of machinery, equipment, and other capital assets incident and related to the operation, maintenance, and administration of an eligible project; and financing costs, including interest during construction and thereafter, underwriter's discount and/or fees; and fees and

expenses for legal, financial, and other professional services. Project costs attributable to an eligible project and incurred prior to the delivery of any obligations issued to finance an eligible project may be reimbursed from the proceeds of sale of (i) obligations or (ii) lease obligations.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 70, Sec. 1, eff. Aug. 4, 1987. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.19, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 306, Sec. 1, eff. May 29, 1999.

Sec. 361.052. FINANCING ELIGIBLE PROJECTS. (a) The governing body of an entity is empowered and authorized to issue, or to provide for the issuance of, obligations and to execute credit agreements in relation thereto in order to finance project costs of an eligible project, or to refund obligations issued or incurred in connection with an eligible project. This subsection applies regardless of when:

(1) the obligation is due; or

(2) title to the project is transferred to the entity.

(b) Money to be paid pursuant to a lease obligation and revenues derived by an entity from the operation of an eligible project constitute revenues to an entity that may be pledged to secure or pay any obligations, and the entity's obligations may be made payable from and secured by, in whole or in part, those revenues. An entity may apply the provisions of Chapter 1371, Government Code, Section 271.052 or 361.053, or any combination of those laws to the issuance of obligations and the execution of credit agreements to satisfy the purposes of this subchapter, except that an entity's obligations may be refunded by the issuance of public securities, as defined by Section 1201.002, Government Code, that are payable from a pledge of ad valorem tax receipts only if the issuance of the public securities is approved by a majority of votes cast at an election conducted in accordance with the bond election procedures established by Chapter 1251, Government Code.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 70, Sec. 1, eff. Aug. 4, 1987. Amended by Acts 1999, 76th Leg., ch. 306, Sec. 2, eff. May 29, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 8.328, eff. Sept. 1, 2001.

Sec. 361.053. REVENUE BONDS. (a) An entity may issue revenue bonds, without approval of the bonds at an election, for the purposes herein provided pursuant to a resolution which prescribes the terms and conditions for the payment of the principal of and interest thereon, and such revenue bonds may be secured by the revenues of an entity as described in Section 361.052, but in no event shall an entity be authorized to levy ad valorem taxes to pay all or part of such principal or interest.

(b) Revenue bonds issued under this section are not a debt or pledge of the faith and credit or the taxing power of the state or the entity but are payable solely from revenues arising under this section that are pledged to the repayment of the revenue bonds. To the extent that pledged revenues include amounts appropriated by the legislature, the revenue bonds shall state on their face that such revenues shall be available to pay debt service only if appropriated by the legislature for that purpose. Each revenue bond must also contain on its face a statement to the effect that:

(1) neither the state nor an agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bonds except as provided by this subsection; and

(2) neither the faith and credit nor the taxing power of the state or any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bonds.

(c) The revenue bonds may be issued from time to time in one or more series or issues, in bearer, registered, or any other form, which may include registered uncertified obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which shall be provided for by the entity under a system of books and records maintained inside or outside the state by the entity or by an agent appointed by the entity in an order or a resolution providing for issuance of its bonds. Bonds may mature serially or otherwise not more than 50 years from their date, provided that bonds payable from money appropriated for that purpose by the legislature shall not mature or be subject to redemption before September 1, 1989, and the date of the first interest payment to be made from appropriated money shall not be

scheduled to occur before September 1, 1989. Bonds may bear no interest or may bear interest at any rate or rates, fixed, variable, floating, or otherwise, determined by the entity or determined pursuant to any contractual arrangements approved by the entity and the state, subject to the provisions of Section 361.054(a). Interest on the bonds may be payable at any time and the rate of interest on the bonds may be adjusted at such time as may be determined by the entity or as may be determined pursuant to any contractual agreement approved by the entity and the state. The bonds may be issued in the form and denominations and executed in the manner and under the terms, conditions, and details determined by the governing body of the entity in the resolution authorizing their issuance. If any officer whose manual or facsimile signature appears on the bonds ceases to be an officer, the signature is still valid and sufficient for all purposes as if the officer had remained in office.

(d) The bonds may be secured additionally by a trust indenture or a deed of trust granting a security interest in an eligible project, under which the trustee may be a financial institution, domiciled inside or outside the state, which has trust power.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 70, Sec. 1, eff. Aug. 4, 1987. Amended by Acts 1999, 76th Leg., ch. 306, Sec. 3, eff. May 29, 1999.

Sec. 361.054. LIMITATIONS ON OBLIGATIONS AND LEASE OBLIGATIONS. (a) Obligations issued or lease obligations incurred hereunder shall be within the interest rate limitations of Chapter 1204, Government Code.

(b) From the proceeds from the sale of obligations an entity may set aside amounts for payments into the interest and sinking fund and reserve funds, and for interest and operating expenses during construction and development, as may be specified in the authorizing proceedings. Proceeds of obligations and amounts on deposit in interest and sinking funds and reserve funds may be invested pending their use for the purpose for which issued, in the manner described in Chapter 1371, Government Code.

(c) All obligations, lease obligations, and the records and contracts relating thereto shall be submitted prior to their delivery to the attorney general of Texas for examination and, if he finds

that they have been issued or incurred in accordance with the constitution and this Act and that they will be binding special obligations of the entity issuing same, he shall approve them, and thereupon they shall be registered by the comptroller of public accounts of the State of Texas, and after such approval and registration they shall be valid and incontestable.

(d) Obligations may not be issued under this subchapter or any other law for eligible projects that include a lease obligation as both terms are defined by this subchapter without the prior approval of the Bond Review Board.

(e) Before an entity as defined by this subchapter may issue and sell obligations under this subchapter or any other law for eligible projects that include a lease obligation as both terms are defined by this subchapter, the legislature must have authorized the specific projects and method of financing by special act or in the general appropriations act, however this section does not apply to a 400-bed intermediate sanction facility located in a county with a population of 2.8 million or above.

(f) Refunding bonds may be issued to refund obligations in the manner now or hereafter provided by general law, including, without limitation, Chapter 1207, Government Code.

(g) The provisions of Chapter 1201, Government Code, apply to obligations issued or lease obligations incurred hereunder, and such obligations shall constitute a "security" within the meaning of Chapter 8, Business & Commerce Code.

(h) An entity may not use proceeds from the sale of obligations under this subchapter to acquire, construct, equip, or enlarge a correctional facility unless the facility complies with federal constitutional standards and applicable court orders.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 70, Sec. 1, eff. Aug. 4, 1987. Amended by Acts 1993, 73rd Leg., ch. 40, Sec. 1, eff. April 22, 1993; Acts 2001, 77th Leg., ch. 1420, Sec. 8.329, eff. Sept. 1, 2001.

SUBCHAPTER E. MUNICIPAL CONTRACT WITH COUNTY OR PRIVATE ENTITY FOR JAIL FACILITIES

Sec. 361.061. AUTHORITY TO CONTRACT. The governing body of a municipality may contract with a private vendor or a county to

provide for the financing, design, construction, leasing, operation, purchase, maintenance, or management of a jail, detention center, work camp, or related facility.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 75(a), eff. Aug. 28, 1989.

Sec. 361.062. CONTRACT REQUIREMENTS. A contract made under this subchapter must:

(1) require the private vendor or county to operate the facility in compliance with minimum standards of construction, equipment, maintenance, and operation of jails adopted by the Commission on Jail Standards and receive and retain a certification of compliance from the commission;

(2) provide for regular, on-site monitoring by the municipality;

(3) if the contract includes construction, provide for a performance bond and a payment bond specifically approved by resolution of the governing body as being adequate for the proposed contract and issued only by a surety authorized to do business as a surety in this state and regulated by the State Board of Insurance;

(4) provide for assumption of liability by a private vendor for all claims arising from the services performed under the contract by the private vendor;

(5) provide for an adequate plan of insurance for a private vendor and its officers, guards, employees, and agents against all claims, including claims based on violations of civil rights, arising from the services performed under the contract by the private vendor;

(6) provide for a plan for the purchase and assumption of operations by the municipality in the event of the bankruptcy of the private vendor;

(7) provide for an adequate plan of insurance to protect the municipality against all claims arising from the services performed under the contract by a private vendor and to protect the municipality from actions by a third party against the private vendor, its officers, guards, employees, and agents as a result of the contract;

(8) contain comprehensive standards for conditions of confinement; and

(9) require that any improvement to real property occurring

as a result of the contract be awarded under a competitive proposal procedure under which quotations and proposals are solicited by advertisement in the same manner as provided in the competitive bidding procedure specifying the relative importance of price and other evaluation factors.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 75(a), eff. Aug. 28, 1989.

Sec. 361.063. AWARD OF IMPROVEMENT PROJECT. (a) An award made under Section 361.062(9) must be made to the responsible offeror whose proposal is determined to be the lowest evaluated offer resulting from negotiation taking into consideration the relative importance of price and other evaluation factors set forth in the request.

(b) Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining the best and final offers.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 75(a), eff. Aug. 28, 1989.

Sec. 361.064. SOVEREIGN IMMUNITY INAPPLICABLE. A private vendor operating under a contract authorized by this subchapter is not entitled to claim sovereign immunity in a suit arising from the services performed under the contract by the private vendor. However, this section does not deprive the municipality, private vendor, or county of any benefits of any law limiting exposure to liability, setting a limit on damages, or establishing defenses to liability.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 75(a), eff. Aug. 28, 1989.

Sec. 361.065. MAXIMUM INMATE POPULATION. A facility authorized by this subchapter must be designed, constructed, operated, and maintained to hold not more than an average daily population of 4,000 inmates.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 75(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 670, Sec. 1, eff. June 13, 2001; Acts 2003, 78th Leg., ch. 873, Sec. 1, eff. June 20, 2003.

Sec. 361.066. APPLICATION TO PRIOR FACILITIES. The governing body may not convert a facility into a correctional facility operated by a private vendor if, before August 3, 1987, the facility is:

(1) operated as a correctional facility by the municipality; or

(2) being constructed by the municipality for use as a correctional facility.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 75(a), eff. Aug. 28, 1989.

Sec. 361.067. LOCATION OF JAIL RESTRICTED IN POPULOUS MUNICIPALITY. (a) Notwithstanding any other provision of this subchapter, a private vendor or county may not establish a jail, detention center, work camp, or related facility in a municipality with a population of 1,500,000 or more if that facility is to be located within one-half mile of a public school, institution of higher education, or place of worship.

(b) Subsection (a) does not apply to a booking facility that will be established within 500 feet of an existing county jail or detention facility.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 75(a), eff. Aug. 28, 1989. Amended by Acts 2003, 78th Leg., ch. 453, Sec. 1, eff. June 20, 2003.

SUBCHAPTER F. DISCIPLINARY MATTERS RELATING TO MUNICIPAL AND COUNTY JAILS

Sec. 361.081. SUPERVISORY OR DISCIPLINARY AUTHORITY OF INMATES. (a) An inmate in a municipal or county jail may not act in a supervisory or administrative capacity over another inmate.

(b) An inmate in a municipal or county jail may not administer discipline over another inmate.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 3.02, eff. Sept. 1, 1989.

Sec. 361.082. RESTRAINT OF PREGNANT INMATE OR DEFENDANT. (a) A municipal or county jail may not use restraints to control the movement of a pregnant woman in the custody of the jail at any time during which the woman is in labor or delivery or recovering from delivery, unless the sheriff or another person with supervisory authority over the jail determines that the use of restraints is necessary to:

(1) ensure the safety and security of the woman or her infant, jail or medical personnel, or any member of the public; or

(2) prevent a substantial risk that the woman will attempt escape.

(b) If a determination to use restraints is made under Subsection (a), the type of restraint used and the manner in which the restraint is used must be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

Added by Acts 2009, 81st Leg., R.S., Ch. 1184 (H.B. 3653), Sec. 3, eff. September 1, 2009.

SUBCHAPTER G. RELIGIOUS FREEDOM

Sec. 361.101. APPLICATION OF LAW RELATING TO FREE EXERCISE OF RELIGION. For purposes of Chapter 110, Civil Practice and Remedies Code, an ordinance, rule, order, decision, or practice that applies to a person in the custody of a municipal or county jail or other correctional facility operated by or under a contract with a county or municipality is presumed to be in furtherance of a compelling governmental interest and the least restrictive means of furthering that interest. The presumption may be rebutted.

Added by Acts 1999, 76th Leg., ch. 399, Sec. 5, eff. Aug. 30, 1999.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 361.901. AIDS AND HIV TESTING IN COUNTY AND MUNICIPAL JAILS; SEGREGATION. (a) In this section, "AIDS" and "HIV" have the meanings assigned by Section 81.101, Health and Safety Code.

(b) A county or municipality may test an inmate confined in the county or municipal jail or in a contract facility authorized by

Subchapter F, Chapter 351, or Subchapter E of this chapter to determine the proper medical treatment of the inmate or the proper social management of the inmate or other inmates in the jail or facility.

(c) If the county or municipality determines that an inmate has a positive test result for AIDS or HIV, the county or municipality may segregate the inmate from other inmates in the jail or facility.

(d) This section does not provide a duty to test for AIDS or HIV, and a cause of action does not arise under this section from a failure to test for AIDS or HIV.

Transferred, redesignated and amended from Code of Criminal Procedure, Chapter 46A by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 4.014, eff. September 1, 2019.

CHAPTER 362. LAW ENFORCEMENT SERVICES PROVIDED THROUGH COOPERATION OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 362.001. DEFINITIONS. In this chapter:

(1) "Joint airport" means an airport that is operated jointly by two municipalities and that is situated in two counties.

(2) "Law enforcement officer" means a municipal police officer, sheriff, deputy sheriff, constable, deputy constable, marshal, deputy marshal, investigator of a district attorney's, criminal district attorney's, or county attorney's office, or police officer of a joint airport who has been commissioned as a peace officer under the laws of this state.

(3) "Multicounty drug task force" means a mutual aid law enforcement task force that is established as a multicounty law enforcement cooperation between counties and municipalities to enhance multicounty interagency coordination, acquire intelligence information, and facilitate multicounty investigations of drug-related crimes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 210, Sec. 1, eff. May 24, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 556 (H.B. 1239), Sec. 1, eff. September 1, 2005.

Sec. 362.002. LAW ENFORCEMENT ASSISTANCE. (a) A county, municipality, or joint airport may, by resolution or order of its governing body, provide for, or authorize its chief administrative officer, chief of police, or marshal to provide for, its regularly employed law enforcement officers to assist another county, municipality, or joint airport. This assistance may be provided only when the mayor or other officer authorized to declare a state of civil emergency in the other county, municipality, or joint airport considers additional law enforcement officers necessary to protect health, life, and property in the county, municipality, or joint airport because of disaster, riot, threat of concealed explosives, or unlawful assembly characterized by force and violence or the threat of force and violence by three or more persons acting together or without lawful authority.

(b) A county, municipality, or joint airport may, by resolution or order of its governing body, enter into an agreement with a municipality, joint airport, or county to form a mutual aid law enforcement task force to cooperate in criminal investigations and law enforcement. Peace officers employed by counties, municipalities, or joint airports covered by the agreement have only the additional investigative authority throughout the region as set forth in the agreement. The agreement must provide for the compensation of peace officers involved in the activities of the task force.

(c) A law enforcement officer employed by a county, municipality, or joint airport that is covered by the agreement may make an arrest outside the county, municipality, or joint airport in which the officer is employed but within the area covered by the agreement. The law enforcement agencies of the area where the arrest is made shall be notified of the arrest without delay, and the notified agency shall make available the notice of the arrest in the same manner as if the arrest were made by a member of that agency.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 374 (H.B. 1789), Sec. 1, eff. June 2, 2019.

Sec. 362.003. PROVISIONS RELATING TO LAW ENFORCEMENT OFFICERS.

(a) While a law enforcement officer regularly employed by one county, municipality, or joint airport is in the service of another county, municipality, or joint airport according to this chapter, the officer is a peace officer of the latter county, municipality, or joint airport and is under the command of the law enforcement officer who is in charge in that county, municipality, or joint airport. The officer has all the powers of a regular law enforcement officer of that county, municipality, or joint airport as fully as if the officer were in the county, municipality, or joint airport where regularly employed. Qualification for office in the territory of regular employment constitutes qualification for office in the other county, municipality, or joint airport and no additional oath, bond, or compensation is needed.

(b) The law enforcement officer who is ordered by the official designated by the governing body of the county, municipality, or joint airport to perform police or peace duties outside the limits of that county, municipality, or joint airport where regularly employed is entitled to the same wage, salary, pension, and other compensation and rights, including injury or death benefits, as if the service were rendered in the county, municipality, or joint airport of the officer's regular employment. The officer is also entitled to payment for any reasonable expenses incurred for travel, food, or lodging while on duty outside the limits of the territory of the officer's regular employment.

(c) The county, municipality, or joint airport regularly employing the law enforcement officer shall pay all wages and disability payments, pension payments, damages to equipment and clothing, medical expenses, and travel, food, and lodging expenses. The county, municipality, or joint airport whose authorized official requested the services shall reimburse the original county, municipality, or joint airport after the payment is made and reimbursement is requested. Each county, municipality, or joint airport may make these payments and reimbursements regardless of any provision in its charter or ordinances to the contrary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 362.004. MULTICOUNTY DRUG TASK FORCE. (a) A multicounty drug task force is composed of law enforcement agencies located in

two or more counties in this state. A multicounty drug task force may be established and operated only after the Department of Public Safety confirms:

(1) a strategic need for the task force; and

(2) the composition of the task force.

(b) A multicounty drug task force, and any county or municipality participating in the task force, must comply with the policies and procedures established for the operation of a multicounty drug task force by the Department of Public Safety.

Added by Acts 2005, 79th Leg., Ch. 556 (H.B. 1239), Sec. 2, eff. September 1, 2005.

Sec. 362.005. TEXAS TRANSNATIONAL INTELLIGENCE CENTER. (a) The sheriff's department of a county with a population of at least 870,000 that borders the Texas-Mexico border and the police department of the municipality having the largest population in that county shall jointly establish and operate the Texas Transnational Intelligence Center as a central repository of real-time intelligence relating to:

(1) autopsies in which the person's death is likely connected to transnational criminal activity;

(2) criminal activity in the counties along the Texas-Mexico border and certain other counties; and

(3) other transnational criminal activity in the state.

(b) The Texas Department of Public Safety shall assist the county sheriff's department and the municipal police department in the establishment and operation of the center.

(c) Each law enforcement agency in a county located along the Texas-Mexico border or in a county that contains a federal checkpoint shall report to the Texas Transnational Intelligence Center intelligence regarding criminal activity in the law enforcement agency's jurisdiction, including details on kidnappings, home invasions, and incidents of impersonation of law enforcement officers. The Texas Alcoholic Beverage Commission and Parks and Wildlife Department shall report to the center intelligence regarding transnational criminal activity in the agency's jurisdiction.

(d) The intelligence in the Texas Transnational Intelligence Center shall be made available to each law enforcement agency in the

state and the Texas Alcoholic Beverage Commission and Parks and Wildlife Department.

(e) The Texas Transnational Intelligence Center shall comply with Section 421.085, Government Code, and the rules relating to that section.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 13, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 183, eff. September 1, 2023.

Sec. 362.006. ESTABLISHMENT OF CERTAIN LAW ENFORCEMENT AGENCIES. A county may establish a law enforcement agency only if authorized by the constitution or other law.

Added by Acts 2025, 89th Leg., R.S., Ch. 511 (S.B. 2143), Sec. 2, eff. September 1, 2025.

CHAPTER 363. CRIME CONTROL AND PREVENTION DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 363.001. SHORT TITLE. This chapter may be cited as the Crime Control and Prevention District Act.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.002. DEFINITIONS. In this chapter:

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

(2) "Director" means a member of a board.

(3) "District" means a crime control and prevention district created under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.003. LIABILITY OF STATE. The state is not obligated

for the support, maintenance, or dissolution of a crime control district created under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

SUBCHAPTER B. CREATION OF DISTRICT AND TEMPORARY BOARD

Sec. 363.051. POLITICAL SUBDIVISIONS AUTHORIZED TO CREATE DISTRICT. (a) The creation of a crime control and prevention district may be proposed under this chapter by a majority vote of the governing body of a:

(1) county:

(A) with a population of more than 130,000; or

(B) that:

(i) does not border the United Mexican States;

(ii) is adjacent to a county with a population of 500,000 or more that borders the United Mexican States; and

(iii) has a population of 5,000 or more; or

(2) municipality that is partially or wholly located in a county with a population of more than 5,000.

(b) The governing body may create a district composed of all or part of the political subdivision governed by that body. A district created by a county may not contain area in more than one county.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.08(a), eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1101 (H.B. 3417), Sec. 1, eff. June 15, 2007.

Sec. 363.052. TEMPORARY BOARD. (a) Not later than the 60th day after the date a district is proposed to be created by a governing body, the governing body shall appoint seven persons that reside in the proposed district to serve as temporary directors of the district.

(b) Not later than the 75th day after the date the district is proposed, the temporary board shall organize. The directors of the temporary board shall elect one of the directors as presiding officer

of the board not later than the 15th day after the date of the appointments under Subsection (a).

(c) A temporary director who is not serving as presiding officer may designate another person to serve in the director's place.

(d) The governing body shall fill a vacancy in the office of a temporary director in the same manner that it originally filled the vacant position.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.053. ELECTION REQUIRED. A district proposed by the governing body may be created and a tax may be authorized only if the creation and the tax are approved by a majority of the qualified voters of the proposed district voting at an election called and held for that purpose.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.054. ELECTION ORDER. (a) After a majority of the temporary directors of a proposed district have approved a budget plan and a crime control plan in accordance with Section 363.061, a majority of the temporary directors may order that a creation election be held.

(b) An order calling an election under Subsection (a) must state:

(1) the nature of the election, including the proposition that is to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open;

(4) the location of the polling places;

(5) in summary form, the approved budget plan and crime control plan of the proposed district; and

(6) the proposed rate of the sales and use tax for the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1,

1997.

Sec. 363.055. SALES TAX: RATE; LIMITATION; MUNICIPAL AUTHORITY. (a) The proposed rate for the district sales and use tax imposed under Subchapter B, Chapter 321, Tax Code, may be any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f), Tax Code. The proposed rate for the district sales and use tax imposed under Subchapter B, Chapter 323, Tax Code, may be only:

(1) one-eighth of one percent;

(2) one-fourth of one percent;

(3) three-eighths of one percent; or

(4) one-half of one percent.

(b) A sales and use tax approved under this chapter may be charged in addition to any other sales and use tax authorized by law and is included in computing a combined sales and use tax rate for purposes of any limitation provided by law on the maximum combined sales and use tax rate of political subdivisions.

(c) A municipality that creates a district shall adopt a sales and use tax under Section 321.108, Tax Code, for financing the operation of the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.08(b), eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1101 (H.B. 3417), Sec. 2, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 4, eff. September 1, 2015.

Sec. 363.056. NOTICE OF ELECTION. In addition to the notice required by Section 4.003(c), Election Code, the temporary directors of a proposed district shall give notice of an election to create a district by publishing a substantial copy of the election order in a newspaper with general circulation in the proposed district once a

week for two consecutive weeks. The first publication must appear before the 35th day before the date set for the election.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.057. ELECTION DATE. The election shall be held on the first uniform election date that occurs after the 34th day after the date on which the election is ordered.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 340, Sec. 4, eff. Sept. 1, 2001.

Sec. 363.058. BALLOT PROPOSITION. The ballot for an election to create a district shall be printed to permit voting for or against the proposition: "The creation of the _____ (name of the political subdivision proposing to create the district) Crime Control and Prevention District dedicated to crime reduction programs and the adoption of a proposed local sales and use tax at a rate of _____ (rate specified in the election order)."

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.059. CANVASSING RETURNS. (a) Not earlier than the second day or later than the 13th day after the date of the election, the temporary board of a proposed district shall meet and canvass the returns of the election.

(b) If a majority of the votes cast favor the creation of the district, the temporary board shall issue an order declaring the district created.

(c) If less than a majority of the votes cast favor the creation of the district, the temporary board may order another election on the matter not earlier than the first anniversary of the date of the preceding election.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1,

1997.

Sec. 363.060. DISSOLUTION OF TEMPORARY BOARD. If a district has not been created under this chapter before the fifth anniversary of the date a district is proposed by the governing body, the temporary board is dissolved on that date and a district may not be created under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.061. CRIME CONTROL PLAN AND BUDGET PLAN. (a) The temporary board of a proposed district shall formulate and approve a two-year crime control plan and a two-year budget plan. The crime control plan must include:

(1) a detailed list of the crime control and crime prevention strategies to be supported by the district; and

(2) the method of annually evaluating the effectiveness and efficiency of individual crime control and crime prevention strategies.

(b) The budget plan must include:

(1) the amount of money budgeted by the district for each crime control and crime prevention strategy;

(2) the amount of money budgeted by the district and the percentage of the total budget of the district for administration, with individual amounts showing the cost of the administration that would be conducted by the district and the cost of administration that would be conducted by private or public entities;

(3) the estimated amount of money available to the district from all sources during the ensuing year;

(4) the amount of balances expected at the end of the years for which the budget is prepared; and

(5) the estimated tax rate that will be required.

(c) The crime control plan and budget plan must be adopted in the same manner as provided for adoption of a proposed annual budget under Section 363.204.

(d) The temporary board shall coordinate its efforts with local law enforcement officials, the local community supervision and

corrections department, and the local juvenile probation department in developing its crime control plan and budget plan.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.062. FINANCING CREATION OF DISTRICT. (a) Except as provided by Subsections (b) and (c), the costs of creating a district by a county to be composed of the whole county shall be allocated as follows:

(1) the county shall pay 40 percent;

(2) the municipality having the largest population in the county shall pay 40 percent; and

(3) the municipality having the second largest population in the county shall pay 20 percent.

(b) The county and the two municipalities may contract for a division of the costs of creating a district that is different from the division of costs described by Subsection (a).

(c) If a district is proposed for only a part of the county, the county shall pay the entire cost of creating the district.

(d) A municipality creating a district shall pay the entire cost of creating the district.

(e) If a district is created, the district shall reimburse each political subdivision that paid creation costs for the actual expenses the subdivision incurred in the creation of the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.063. DONATIONS, GIFTS, AND ENDOWMENTS. On behalf of a district, the temporary board may accept donations, gifts, and endowments to be held in trust for any purpose and under any direction, limitation, or provision prescribed in writing by the donor that is consistent with this chapter and the proper management of the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

SUBCHAPTER C. DISTRICT ADMINISTRATION

Sec. 363.101. BOARD OF DIRECTORS. (a) A district is governed by a board of seven directors appointed in the same manner as provided for the selection of temporary directors under Section 363.052(a).

(b) Board members serve staggered two-year terms that expire September 1, except that the initial appointees under this section shall draw lots to determine:

(1) the three directors to serve terms that expire on September 1 of the first year following creation of the district; and

(2) the four directors to serve terms that expire on September 1 of the second year following creation of the district.

(c) Repealed by Acts 1999, 76th Leg., ch. 1219, Sec. 7(a), eff. Sept. 1, 1999.

(d) A vacancy in the office of director shall be filled for the unexpired term in the same manner that the vacant position was originally filled.

(e) A member of the board is not liable for civil damages or criminal prosecution for any act performed in good faith in the execution of duties as a board member or for an action taken by the board.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1219, Sec. 7(a), eff. Sept. 1, 1999.

Sec. 363.1015. ALTERNATE FORMS OF APPOINTMENT: BOARD OF DIRECTORS. (a) The governing body of a municipality or county by resolution may appoint the governing body's membership as the board of directors of the district.

(b) In a district for which the board is not appointed under Subsection (a), the governing body of the municipality or county may create a board by having each member of the governing body appoint one director to the board, subject to confirmation by the governing body.

(c) A director appointed under Subsection (b) serves:

(1) at the pleasure of the governing body of the municipality or county; and

(2) for a term concurrent with the term of the appointing member.

Added by Acts 1999, 76th Leg., ch. 1219, Sec. 1, eff. Sept. 1, 1999.

Sec. 363.102. FILING OF OFFICER'S BOND. (a) Before assuming the duties of the office, each director or officer, including a person designated under Section 363.101(c), must execute a bond for $5,000 payable to the district, conditioned on the faithful performance of the person's duties as director or officer.

(b) The bond shall be kept in the permanent records of the district.

(c) The board may pay for the bonds of the directors or officers with district funds.

(d) The board and the district may issue or sell bonds conditioned on the faithful performance of a person's duties as a director as provided by this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.103. OFFICERS. (a) The board shall elect from among its members a president and vice president. The board shall appoint a secretary. The secretary need not be a director. The person who performs the duties of auditor for the political subdivision shall serve as treasurer for the district.

(b) Each officer of the board serves for a term of one year.

(c) A vacancy in a board office shall be filled for the unexpired term by the board.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.104. COMPENSATION. A director or officer serves without compensation, but a director or officer may be reimbursed for actual expenses incurred in the performance of official duties. Those expenses must be reported in the district's minute book or other district record and must be approved by the board.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.105. VOTING REQUIREMENT. A concurrence of a majority of the members of the board is necessary in matters relating to the business of a district. A two-thirds majority vote of the board is required to reject any application for funding available under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.106. CONTRACT FOR ADMINISTRATIVE ASSISTANCE. The board may contract with a public agency or private vendor to assist in the administration or management of the district or to assist in the review of applications for funding available under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 363.151. DISTRICT RESPONSIBILITIES; LIMITATIONS ON EXPENDITURES. (a) The district may finance all the costs of a crime control and crime prevention program, including the costs for personnel, administration, expansion, enhancement, and capital expenditures.

(b) The program may include police and law enforcement related programs, including:

(1) a multijurisdiction crime analysis center;
(2) mobilized crime analysis units;
(3) countywide crime stoppers telephone lines;
(4) united property-marking programs;
(5) home security inspection programs;
(6) an automated fingerprint analysis center;
(7) an enhanced radio dispatch center;
(8) a computerized criminal history system;
(9) enhanced information systems programs;
(10) a drug and chemical disposal center;

(11) a county crime lab or medical examiner's lab; and

(12) a regional law enforcement training center.

(c) The program may include community-related crime prevention strategies, including:

(1) block watch programs;

(2) a community crime resistance program;

(3) school-police programs;

(4) senior citizen community safety programs;

(5) senior citizen anticrime networks;

(6) citizen crime-reporting projects;

(7) home alert programs;

(8) a police-community cooperation program;

(9) a radio alert program; and

(10) ride along programs.

(d) The program may include specific treatment and prevention programs, including:

(1) positive peer group interaction programs;

(2) drug and alcohol awareness programs;

(3) countywide family violence centers;

(4) work incentive programs;

(5) social learning centers;

(6) transitional aid centers and preparole centers;

(7) guided group interaction programs;

(8) social development centers;

(9) street gang intervention centers;

(10) predelinquency intervention centers;

(11) school relations bureaus;

(12) integrated community education systems;

(13) steered straight programs;

(14) probation subsidy programs;

(15) Juvenile Offenders Learn Truth (JOLT) programs;

(16) reformatory visitation programs;

(17) juvenile awareness programs;

(18) shock incarceration;

(19) shock probation;

(20) community restitution programs;

(21) team probation;

(22) electronic monitoring programs;

(23) community improvement programs;

(24) at-home arrest;

(25) victim restitution programs;
(26) additional probation officers; and
(27) additional parole officers.

(e) The program may include court and prosecution services, including:
(1) court watch programs;
(2) community arbitration and mediation centers;
(3) night prosecutors programs;
(4) automated legal research systems;
(5) an automated court management system;
(6) a criminal court administrator;
(7) an automated court reporting system;
(8) additional district courts that are required by law to give preference to criminal cases, judges, and staff; and
(9) additional prosecutors and staff.

(f) The program may include additional jails, jailers, guards, and other necessary staff.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.152. COORDINATION; EVALUATION; GRANTS. (a) The district shall coordinate its efforts with the local community justice council in developing its crime control and crime prevention program.

(b) The district shall fund an annual evaluation program to study the impact, efficiency, and effectiveness of new or expanded crime control and crime prevention programs.

(c) The board may seek the assistance of the Office of State-Federal Relations in identifying and applying for federal grants for criminal justice programs. The board shall notify the appropriate council of government of any intent to submit applications for federal funds and for inclusion in the regional criminal justice planning process.

(d) The district may apply for and receive grants for criminal and juvenile justice programs from the criminal justice division in the governor's office.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.153. GENERAL BOARD POWER OVER FUNDS. The board shall manage, control, and administer the district funds except as provided by Section 363.205.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.154. USE OF REVENUE. (a) In a district created by a county, the board, from the sales and use tax revenue distributed to the district under Section 323.105, Tax Code, must budget, to the extent practicable:

(1) not less than 49.75 percent of the revenue to finance programs for which applications are submitted under Section 363.209(a);

(2) not less than 24.87 percent of the revenue to finance programs for which applications are submitted under Section 363.209(b); and

(3) not less than 24.87 percent of the revenue to be distributed under Subsection (b) or (d).

(b) In a district containing more than one municipality, the funds under Subsection (a)(3) shall be apportioned to the municipalities of the district based on a formula that averages the proportionate percentage of:

(1) the population of a municipality to the total population of the district;

(2) the index crime reported in each municipality in the district to the total index crime reported in the district; and

(3) the sales tax generated by each municipality to the total sales tax generated in the district based on the amount collected during the preceding year.

(c) The regional council of governments of a county shall compute the formula described by Subsection (b). The regional council of governments shall provide the population estimates and the index crime statistics that are required to compute the formula. The regional council of governments shall provide the district with a statement of the amounts that the district must make available to each municipality in a district before the board adopts the budget

and at that time also shall provide the district with a detailed summary of the computation.

(d) In a district containing only one municipality, the funds under Subsection (a)(3) shall be apportioned to the municipality.

(e) In a district created by a municipality, the board may spend the revenue derived from the sales and use tax distributed under Section 321.108, Tax Code, only for a purpose authorized by Section 363.151.

(f) The budget distribution described by Subsection (a) or (e) shall be computed after a county or municipality has been properly reimbursed for expenses described by Section 363.062.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1101 (H.B. 3417), Sec. 3, eff. June 15, 2007.

Sec. 363.1541. REDUCTION OF TAX RATE FOR CERTAIN DISTRICTS. (a) This section applies only to a district created by a municipality that has elected to be added to the territory of a regional transportation authority under Section 452.6025, Transportation Code.

(b) The board shall reduce the sales and use tax imposed for the benefit of the district to the highest rate that will not impair the imposition of the regional transportation authority's sales and use tax on or before the effective date of the addition of the municipality to the authority as determined by the executive committee of the regional transportation authority under Section 452.6025, Transportation Code.

Added by Acts 2003, 78th Leg., ch. 915, Sec. 4, eff. June 20, 2003.

Sec. 363.155. RULES AND PROCEDURES. (a) A board may adopt rules governing district-funded programs and the functions of district staff.

(b) The board may prescribe accounting and control procedures for the district.

(c) The board is subject to the administrative procedure law,

Chapter 2001, Government Code.

(d) Subsection (c) does not apply to a district that contains only one municipality.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1219, Sec. 2, eff. Sept. 1, 1999.

Sec. 363.156. PURCHASING. (a) Except as provided by Subsection (b), the board may prescribe the method of making purchases and expenditures by and for the district.

(b) To the extent competitive bidding procedures in Title 8 apply, the board may not enter purchasing contracts that involve spending more than $25,000 unless the board complies with:

(1) Subchapter C, Chapter 262, if the district was created by a county; or

(2) Chapter 252, if the district was created by a municipality.

(c) If the political subdivision that created the district has a purchasing agent authorized by law, that agent shall serve as purchasing agent for the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 115, Sec. 6, eff. Sept. 1, 2001.

Sec. 363.157. PROPERTY TO BE USED IN ADMINISTRATION. The board may lease or acquire in another manner facilities, equipment, or other property for the sole purpose of administering the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. July 1, 1997.

Sec. 363.158. REIMBURSEMENT FOR SERVICES. (a) A county or municipality located entirely outside the boundaries of the district shall, on request, reimburse a district for the district's cost of including in a district program a resident of that county or municipality.

(b) The board may require reimbursement from the state for the district's cost of including in a district program or facility a person who is a resident of the state but is not a resident of the district.

(c) On behalf of the district, the board may contract with a municipal or county government or with the state or federal government for the municipal, county, state, or federal government to reimburse the district for including a person in a district program.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. July 1, 1997.

Sec. 363.159. SERVICE CONTRACTS. When acting on behalf of the district, the board may contract with the following entities to furnish the staff, facilities, equipment, programs, and services the board considers necessary for the effective operation of the district:

(1) a municipality, county, special district, or other political subdivision of the state;

(2) a state or federal agency;

(3) an individual; or

(4) an entity in the private sector.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. July 1, 1997.

Sec. 363.160. DONATIONS, GIFTS, AND ENDOWMENTS. On behalf of the district, the board may accept donations, gifts, and endowments to be held in trust for any purpose and under any direction, limitation, or other provision prescribed in writing by the donor that is consistent with this chapter and the proper management of the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.161. AUTHORITY TO SUE AND BE SUED. The board may sue and be sued in the name of the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

SUBCHAPTER D-1. ADDITION OF TERRITORY TO DISTRICT

Sec. 363.181. ELECTION REQUIRED. The governing body that created a district may add all or part of the territory in the political subdivision governed by that body to the district and the district may impose a tax in that territory only if the addition of the territory and the imposition of the tax are approved by a majority of the qualified voters of the territory to be added voting at an election held for that purpose.

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 2, eff. June 19, 2015.

Sec. 363.182. ELECTION ORDER. (a) After a majority of the board has approved a budget plan and a crime control plan in accordance with Section 363.061 that include the proposed addition of territory, a majority of the board may order that an additional election be held.

(b) An order calling an election under Subsection (a) must state:

(1) the nature of the election, including the proposition that is to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open;

(4) the location of the polling places;

(5) in summary form, the approved budget plan and crime control plan that include the proposed addition of territory; and

(6) the proposed rate of the sales and use tax to be imposed in the territory to be added.

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 2, eff. June 19, 2015.

Sec. 363.183. NOTICE OF ELECTION. In addition to the notice required by Section 4.003(c), Election Code, the board shall give notice of an election to add territory to the district by publishing

a substantial copy of the election order in a newspaper with general circulation in the territory to be added once a week for two consecutive weeks. The first publication must appear before the 35th day before the date set for the election.

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 2, eff. June 19, 2015.

Sec. 363.184. BALLOT PROPOSITION. The ballot for an election to add territory to a district shall be printed to permit voting for or against the proposition: "The addition of _____ (description of territory to be added) to the _____ (name of the political subdivision that created the district) Crime Control and Prevention District dedicated to crime reduction programs and the adoption of a proposed local sales and use tax in the territory to be added at a rate of _____ (rate specified in the election order)."

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 2, eff. June 19, 2015.

Sec. 363.185. ELECTION RESULTS. (a) If a majority of the votes cast in the election favor the addition of the territory to the district, the board shall issue an order declaring the territory added to the boundaries of the district.

(b) If a majority of the votes cast in the election do not favor the addition of territory to the district, the board may not order another election on the matter before the first anniversary of the date of the most recent election.

(c) The provisions of Section 321.102, Tax Code, governing the application of a municipal sales and use tax in the event of a change in the boundaries of a municipality apply to the application of a tax imposed under this chapter to territory added under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1096 (H.B. 2883), Sec. 2, eff. June 19, 2015.

SUBCHAPTER E. DISTRICT FINANCES

Sec. 363.201. FISCAL YEAR. (a) The board shall establish the

fiscal year for the district, and the district shall operate on the basis of that year.

(b) The fiscal year may not be changed more than once in a 24-month period.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.202. AUDITS AND DISTRICT RECORDS. (a) The board shall have an annual audit made of the financial condition of the district by an independent auditor.

(b) The annual audit and other district records shall be open to inspection during regular business hours at the principal office of the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.203. ANNUAL BUDGET PROPOSAL. (a) The board shall propose an annual budget based on the apportionment described by Section 363.154. The board shall consider the applications for program funding in preparing the proposed budget.

(b) The proposed budget must contain a complete financial statement, including a statement of:

(1) the outstanding obligations of the district;

(2) the amount of cash on hand to the credit of each fund of the district;

(3) the amount of money received by the district from all sources during the previous year;

(4) the estimated amount of money available to the district from all sources during the current fiscal year;

(5) the amount of money needed to fund programs approved for funding by the board;

(6) the amount of money requested for programs that were not approved for funding by the board;

(7) the tax rate for the next fiscal year;

(8) the amount of the balances expected at the end of the year in which the budget is being prepared; and

(9) the estimated amount of revenues and balances available

to cover the proposed budget.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.204. ADOPTION OF BUDGET BY BOARD. (a) Not later than the 100th day before the date each fiscal year begins, the board shall hold a public hearing on the proposed annual budget.

(b) The board shall publish notice of the hearing in a newspaper with general circulation in the district not later than the 10th day before the date of the hearing.

(c) Any resident of the district is entitled to be present and participate at the hearing.

(d) Not later than the 80th day before the date each fiscal year begins, the board shall adopt a budget. The board may make any changes in the proposed budget that in its judgment the interests of the taxpayers demand.

(e) Not later than the 10th day after the date the budget is adopted, the board shall submit the budget to the governing body of the political subdivision that created the district.

(f) The board by rule may adopt procedures for adopting a budget different from the procedures outlined in this subchapter, but the board must hold public hearings relating to the budget.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.205. APPROVAL OF BUDGET BY GOVERNING BODY OF CREATING POLITICAL SUBDIVISION. (a) Not later than the 45th day before the date each fiscal year begins, the governing body of the political subdivision that created the district shall hold a public hearing on the budget adopted by the board and submitted to the governing body.

(b) The governing body must publish notice of the hearing in a newspaper with general circulation in the district not later than the 10th day before the date of the hearing.

(c) Any resident of the district is entitled to be present and to participate at the hearing.

(d) Not later than the 30th day before the date the fiscal year begins, the governing body shall approve or reject the budget

submitted by the board. The governing body may not amend the budget.

(e) If the governing body rejects the budget submitted by the board, the governing body and the board shall meet and together amend and approve the budget before the beginning of the fiscal year.

(f) The budget may be amended after the beginning of the fiscal year on approval by the board and the governing body.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.206. LIMITATIONS ON EXPENDITURES AND INVESTMENTS. (a) Money may be spent only for an expense included in the annual budget or an amendment to it.

(b) A district may not incur a debt payable from revenues of the district other than the revenues on hand or to be on hand in the current or immediately following fiscal year of the district.

(c) The board may not invest district funds in funds or securities other than:

(1) bonds of the United States;

(2) certificates of indebtedness issued by the United States secretary of the treasury;

(3) bonds of this state or a county, municipality, or school district of this state;

(4) shares or share accounts of savings and loan associations organized under the laws of this state or federal savings and loan associations domiciled in this state, if the shares or share accounts are insured by the Federal Deposit Insurance Corporation; or

(5) investments specified by Chapter 2256, Government Code.

(d) Subsection (b) does not apply to an expenditure related to, or an obligation issued or incurred in connection with, the financing of the construction or equipping of police facilities. Funds received by a municipality or other political subdivision of the state from a district for the financing of construction or equipping of police facilities may be used by the municipality or other political subdivision to secure the payment of bonds or other obligations issued by the municipality or other political subdivision to finance the construction or equipping of facilities described in Subsection (e), notwithstanding any law to the contrary.

(e) For purposes of this chapter, "police facility" means a police station or substation, police storefront, municipal court, jail, or minimum security facility.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1219, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 8.105, eff. Sept. 1, 2001.

Sec. 363.207. ACCOUNT OF DISBURSEMENTS OF DISTRICT. Not later than the 60th day after the last day of each fiscal year, an administrator shall prepare for the board a sworn statement of the amount of money that belongs to the district and an account of the disbursements of that money.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.208. DEPOSIT OF FUNDS. (a) The board shall deposit district funds in a special account in the treasury of the political subdivision that created the district.

(b) District funds, other than those invested as provided by Section 363.206(c), shall be deposited as received in the treasury of the political subdivision and must remain on deposit.

(c) The board shall reimburse the political subdivision for any costs, other than personnel costs, the political subdivision incurs for performing the duties under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.209. APPLICATIONS FOR PROGRAM FUNDING. (a) An officer of the political subdivision that created the district or the head of a department of that political subdivision may, with the consent of the political subdivision, apply to the board for funding of a program as described by Section 363.151.

(b) If the district was created by a county, the chief administrative officer of a municipality that is completely or partly

located within the district may, with the consent of the governing body of the municipality, apply to the board for funding of a program as described by Section 363.151.

(c) An application under this section must be submitted not later than the 140th day before the date the fiscal year begins, unless an exception has been adopted by rule.

(d) The board by rule may adopt application procedures.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.210. BONDS PROHIBITED. The board may not issue or sell general obligation bonds, revenue bonds, or refunding bonds.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

SUBCHAPTER F. REFERENDUM ON CONTINUATION OR DISSOLUTION OF DISTRICT

Sec. 363.251. REFERENDUM AUTHORIZED. (a) The board may hold a referendum on the question of whether to:

(1) continue the district; or

(2) dissolve the district.

(b) A board may order a referendum authorized by this subchapter on its own motion by a majority vote of its members.

(c) The board shall order a referendum authorized by this subchapter:

(1) on presentation of a petition that requests continuation or dissolution of the district and complies with the requirements of Sections 363.252-363.256; or

(2) if a majority of the governing body of the political subdivision that created the district by resolution requests a referendum on continuation or dissolution after notice and a public hearing on the matter.

(d) The board may not hold a referendum under this subchapter earlier than the fourth anniversary of the date the district was created or earlier than the third anniversary of the date of the last continuation or dissolution referendum.

(e) For a continuation referendum, the ballot shall be printed to permit voting for or against the proposition: "Whether the

_____ (name of the political subdivision that created the district) Crime Control and Prevention District should be continued and the crime control and prevention district sales and use tax should be continued."

(f) For a dissolution referendum, the ballot shall be printed to permit voting for or against the proposition: "Whether the _____ (name of the political subdivision that created the district) Crime Control and Prevention District should be dissolved and the crime control and prevention district sales and use tax should be abolished."

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1219, Sec. 4, eff. Sept. 1, 1999.

Sec. 363.2515. CONTINUATION OF DISTRICT: CERTAIN POLITICAL SUBDIVISIONS. (a) The board or the commissioners court of the county or governing body of the municipality that created the district may specify the number of years for which a district should be continued.

(b) A district may be continued under Subsection (a) only for 5, 10, 15, or 20 years.

(c) For a continuation referendum under this section, the ballot shall be printed to permit voting for or against the proposition: "Whether the _____ Crime Control and Prevention District should be continued for _____ years and the crime control and prevention district sales tax should be continued for _____ years."

Added by Acts 1999, 76th Leg., ch. 1219, Sec. 5, eff. Sept. 1, 1999.

Sec. 363.252. APPLICATION FOR PETITION. (a) On written application of 10 or more registered voters of the district, the clerk of the political subdivision that created the district shall issue to the applicants a petition to be circulated among registered voters for their signatures.

(b) To be valid, an application for a petition to continue the district must contain:

(1) the following heading: "Application for a Petition for

a Local Option Referendum to Continue the Crime Control and Prevention District and to Continue the Crime Control and Prevention District Sales and Use Tax";

(2) the following statement of the issue to be voted on: "Whether the _____ (name of the political subdivision that created the district) Crime Control and Prevention District should be continued and the crime control and prevention district sales and use tax should be continued";

(3) the following statement immediately above the signatures of the applicants: "It is the purpose and intent of the applicants whose signatures appear below that the crime control and prevention district be continued and the crime control and prevention district sales and use tax in _____ (name of the political subdivision that created the district) be continued"; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

(c) To be valid, an application for a petition to dissolve the district must contain:

(1) the following heading: "Application for a Petition for a Local Option Referendum to Dissolve the Crime Control and Prevention District and to Abolish the Crime Control and Prevention District Sales and Use Tax";

(2) the following statement of the issue to be voted on: "Whether the _____ (name of the political subdivision that created the district) Crime Control and Prevention District should be dissolved and the crime control and prevention district sales and use tax should be abolished";

(3) the following statement immediately above the signatures of the applicants: "It is the purpose and intent of the applicants whose signatures appear below that the crime control and prevention district be dissolved and the crime control and prevention district sales and use tax in _____ (name of the political subdivision that created the district) be abolished"; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.253. PETITION. (a) To be valid, a petition for a referendum to continue a district must contain:

(1) the following heading: "Petition for a Local Option Referendum to Continue the _____ (name of the political subdivision that created the district) Crime Control and Prevention District and to Continue the Crime Control and Prevention District Sales and Use Tax";

(2) a statement of the issue to be voted on in the same words used in the application;

(3) the following statement immediately above the signatures of the petitioners: "It is the purpose and intent of the petitioners whose signatures appear below that the crime control and prevention district be continued and the crime control and prevention district sales and use tax in _____ (name of the political subdivision that created the district) be continued";

(4) lines and spaces for the names, signatures, residence addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the clerk of the political subdivision on each page.

(b) To be valid, a petition for a referendum to dissolve a district must contain:

(1) the following heading: "Petition for a Local Option Referendum to Dissolve the _____ (name of the political subdivision that created the district) Crime Control and Prevention District and to Abolish the Crime Control and Prevention District Sales and Use Tax";

(2) a statement of the issue to be voted on in the same words used in the application;

(3) the following statement immediately above the signatures of the petitioners: "It is the purpose and intent of the petitioners whose signatures appear below that the crime control and prevention district be dissolved and the crime control and prevention district sales and use tax in _____ (name of the political subdivision that created the district) be abolished";

(4) lines and spaces for the names, signatures, residence addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the clerk of the political subdivision on each page.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.254. COPIES OF APPLICATION AND PETITION. The clerk of the political subdivision shall keep an application and a copy of the petition in the files of the clerk's office. The clerk shall issue to the applicants as many copies as they request.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.255. FILING OF PETITION. To form the basis for the ordering of a referendum, the petition must:

(1) be filed with the clerk of the political subdivision not later than the 60th day after the date of its issuance; and

(2) contain at least a number of signatures of registered voters of the political subdivision equal to five percent of the number of votes cast in the political subdivision for all candidates for governor in the most recent gubernatorial general election.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.256. REVIEW BY CLERK. (a) The clerk of the political subdivision shall, on the request of any person, check each name on a petition to determine whether the signer is a registered voter of the district. A person requesting verification by the clerk shall pay the clerk a sum equal to 20 cents for each name before the verification begins.

(b) The clerk may not count a signature if the clerk has a reason to believe that:

(1) it is not the actual signature of the purported signer;

(2) the voter registration certificate number is not correct;

(3) it is a duplication either of a name or of handwriting used in any other signature on the petition;

(4) the residence address of the signer is not correct; or

(5) the name of the voter is not signed exactly as it

appears on the official copy of the current list of registered voters for the voting year in which the petition is issued.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.257. CERTIFICATION. Not later than the 40th day after the date a petition is filed, excluding Saturdays, Sundays, and legal holidays, the clerk of the political subdivision shall certify to the board the number of registered voters signing the petition.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.258. ELECTION ORDER. (a) The board shall record on its minutes the date the petition is filed and the date it is certified by the clerk.

(b) If the petition contains the required number of signatures and is in proper order, the board shall, at its next regular session after the certification by the clerk, order a referendum to be held at the regular polling place in each election precinct in the political subdivision on the next uniform election date authorized by Section 41.001(a), Election Code, that occurs at least 20 days after the date of the order.

(c) The board shall state in the order the proposition to be voted on in the referendum. The order is prima facie evidence of compliance with all provisions necessary to give it validity.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.259. APPLICABILITY OF ELECTION CODE. A referendum authorized by this subchapter shall be held and the returns shall be prepared and canvassed in conformity with the Election Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.260. RESULTS OF REFERENDUM. (a) If less than a majority of the votes cast in a continuation referendum are for the continuation of a district or if a majority of the votes cast in a dissolution referendum are for dissolution of the district:

(1) the board shall certify that fact to the secretary of state not later than the 10th day after the date of the canvass of the returns; and

(2) the district is dissolved and ceases to operate on the earlier of:

(A) the last day of the district's fiscal year; or

(B) the 180th day after the date that the continuation or dissolution referendum is held.

(b) If a majority of the votes cast in a continuation referendum are for the continuation of the district or if less than a majority of the votes cast in a dissolution referendum are for dissolution of the district, another referendum may not be held except as authorized by Section 363.251.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1219, Sec. 6, eff. Sept. 1, 1999.

Sec. 363.261. ELECTION CONTEST. Not later than the 30th day after the date the result of a referendum is declared, any qualified voter of the district may contest the election by filing a petition in a district court located in the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.

Sec. 363.262. EFFECTIVE DATE OF TAX CHANGE. (a) If less than a majority of the votes cast in a continuation referendum are for the continuation of the district or if a majority of the votes cast in a dissolution referendum are for dissolution of the district, the board shall notify the comptroller in writing of the results of the referendum not later than the 10th day after the date the referendum returns are canvassed.

(b) If the district is to be dissolved as a result of the referendum, the abolition of the local crime control sales and use

tax takes effect on the first day of the first calendar quarter that occurs after the expiration of the first complete calendar quarter that occurs after the comptroller receives a notice of the results of the continuation or dissolution referendum.

(c) If the comptroller determines that an effective date provided by Subsection (b) will occur before the comptroller can reasonably take the action required to implement abolition of the tax, the comptroller may extend the effective date until the final day of the succeeding calendar quarter.

Added by Acts 2001, 77th Leg., ch. 1263, Sec. 4, eff. Sept. 1, 2001.

SUBCHAPTER G. DISTRICT DISSOLUTION

Sec. 363.301. TIME FOR DISSOLUTION OF DISTRICT. (a) The district is dissolved on the first uniform election date that occurs after the fifth anniversary of the date the district began to levy taxes for district purposes if the district has not held a continuation or dissolution referendum.

(b) The district is dissolved on the first uniform election date that occurs after the fifth anniversary of the date of the most recent continuation or dissolution referendum.

(c) Subsection (b) does not apply to a district that is continued under Section 363.2515, and that district is dissolved at the end of the period for which it was continued.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.08(e), eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1420 (S.B. 575), Sec. 1, eff. June 19, 2009.

Sec. 363.302. DISSOLUTION OF DISTRICT. (a) On the date that the district is dissolved, the district shall convey or transfer, as provided by Subsection (h):

(1) title to land, buildings, real and tangible improvements, and equipment owned by the district;

(2) operating funds and reserves for operating expenses and funds that have been budgeted by the district for the remainder of

the fiscal year in which the district is dissolved to support crime control activities and programs for residents of the political subdivision that created the district;

(3) taxes levied by the district during the current year for crime control purposes;

(4) funds established for payment of indebtedness assumed by the district; and

(5) any accumulated employee retirement funds.

(b) After the date the district is dissolved, the district may not impose taxes for district purposes or for providing crime control activities and programs for the residents of the district.

(c) If on the date that the district is dissolved the district has outstanding short-term or long-term liabilities, the board shall, not later than the 30th day after the date of the dissolution, adopt a resolution certifying each outstanding short-term and long-term liability. The political subdivision that created the district shall assume the outstanding short-term and long-term liabilities. The political subdivision shall collect the sales and use tax under Section 321.108 or 323.105, Tax Code, for the remainder of the calendar year and may by resolution of its governing body continue to collect the tax for an additional calendar year if the revenue from the tax is needed to retire liabilities of the district that were assumed by the political subdivision. The governing body shall notify the comptroller of this continuation not later than the 60th day before the date the tax would otherwise expire. Any tax collected after the liabilities have been retired shall be transferred or conveyed as provided by Subsection (a).

(d) The district and the board may continue to operate for a period not to exceed two months after carrying out the responsibilities required by Subsections (a) and (c). The board and the district are continued in effect for the purpose of satisfying these responsibilities.

(e) If the board and the district are continued in effect under Subsection (d), the board and district are dissolved entirely on the first day of the month following the month in which the board issues an order certifying to the secretary of state that no responsibilities of Subsections (a) and (c) are left unsatisfied.

(f) A district or board that continues to operate under Subsection (d) may not incur any new liabilities without the approval of the governing body of the political subdivision that created the

district. Not later than the 60th day after the date of the dissolution referendum, the governing body shall review the outstanding liabilities of the district and set a specific date by which the political subdivision must retire the district's outstanding liabilities.

(g) On the date that the district is dissolved, district-funded programs, including additional courts, shall immediately terminate and district-funded personnel, except personnel required to retire the responsibilities of the district, are terminated.

(h) In a district created by a county, the board shall convey or transfer the value of the items described by Subsection (a) following the apportionment formula described by Section 363.154(a). In a district created by a municipality, the board shall convey or transfer the value of the items described by Subsection (a) to the municipality.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.03(a), eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1101 (H.B. 3417), Sec. 4, eff. June 15, 2007.

CHAPTER 364. ENFORCEMENT OF PUBLIC CAMPING BANS

Sec. 364.001. DEFINITIONS. In this chapter:

(1) "Local entity" means:

(A) the governing body of a municipality or county;

(B) an officer or employee of or a division, department, or other body that is part of a municipality or county, including a sheriff, municipal police department, municipal attorney, or county attorney; and

(C) a district attorney or criminal district attorney.

(2) "Policy" includes a formal, written rule, ordinance, order, or policy and an informal, unwritten policy.

(3) "Public camping ban" means a law, rule, ordinance, order, or other regulation that prohibits camping in a public place, including Section 48.05, Penal Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 677 (H.B. 1925), Sec. 3, eff. September 1, 2021.

Sec. 364.002. POLICY ON CAMPING BANS. (a) A local entity may not adopt or enforce a policy under which the entity prohibits or discourages the enforcement of any public camping ban.

(b) In compliance with Subsection (a), a local entity may not prohibit or discourage a peace officer or prosecuting attorney who is employed by or otherwise under the direction or control of the entity from enforcing a public camping ban.

(c) This section does not prohibit a policy that encourages diversion or a provision of services in lieu of citation or arrest.

Added by Acts 2021, 87th Leg., R.S., Ch. 677 (H.B. 1925), Sec. 3, eff. September 1, 2021.

Sec. 364.003. INJUNCTIVE RELIEF. (a) The attorney general may bring an action in a district court in Travis County or in a county in which the principal office of the entity is located to enjoin a violation of Section 364.002.

(b) The attorney general may recover reasonable expenses incurred in obtaining relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

Added by Acts 2021, 87th Leg., R.S., Ch. 677 (H.B. 1925), Sec. 3, eff. September 1, 2021.

Sec. 364.004. DENIAL OF STATE GRANT FUNDS. (a) A local entity may not receive state grant funds, and state grant funds for the local entity shall be denied, for the state fiscal year following the year in which a final judicial determination in an action brought under Section 364.003 is made that the entity has intentionally violated Section 364.002.

(b) The comptroller shall adopt rules to implement this section uniformly among the state agencies from which state grant funds are distributed to a municipality or county.

(c) A local entity that has not violated Section 364.002 may not be denied state grant funds, regardless of whether the entity is a part of another entity that is in violation of that section.

Added by Acts 2021, 87th Leg., R.S., Ch. 677 (H.B. 1925), Sec. 3, eff.

September 1, 2021.

CHAPTER 365. TEMPORARY SECURE WEAPON STORAGE FOR CERTAIN PUBLIC BUILDINGS

Sec. 365.001. APPLICABILITY. (a) This chapter applies to a building or portion of a building:

(1) that is:

(A) used by a political subdivision of this state; and

(B) generally open to the public; and

(2) in which:

(A) carrying a handgun or other firearm, location-restricted knife, club, or other weapon on the premises or part of the premises would violate Chapter 46, Penal Code, or other law; or

(B) the political subdivision in control of the building, by sign or otherwise, prohibits handguns or other firearms, location-restricted knives, clubs, or other weapons on the premises or part of the premises.

(b) This chapter does not apply to:

(1) a penal institution, as that term is defined by Section 1.07, Penal Code; or

(2) a public primary or secondary school or institution of higher education.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 2, eff. September 1, 2021.

Sec. 365.002. TEMPORARY SECURE WEAPON STORAGE. (a) A political subdivision may provide temporary secure weapon storage for a building or portion of a building to which this chapter applies for persons who enter the building or portion of the building with a weapon prohibited in that building or portion of the building.

(b) The temporary secure weapon storage may be provided by:

(1) self-service weapon lockers described by Section 365.003; or

(2) other temporary secure weapon storage operated at all times by a designated employee of the political subdivision under Section 365.004.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 2, eff.

September 1, 2021.

Sec. 365.003. SELF-SERVICE WEAPON LOCKERS FOR TEMPORARY SECURE STORAGE. (a) A political subdivision may provide self-service weapon lockers for the temporary secure storage of any weapon prohibited in a building or portion of a building.

(b) A self-service weapon locker must allow secure locking by the user and:

(1) provide a key for reopening; or

(2) reopen by electronic means, such as by a fingerprint scan or entry of a numeric code.

(c) A political subdivision may require a person to submit the person's name, the number of the person's driver's license or other form of identification, and the person's telephone number as a condition for use of a self-service weapon locker.

(d) A person placing a weapon in a self-service weapon locker may designate an alternate person to whom the weapon may be released if the person is not able to reclaim the person's weapon before the 30th day after the date the weapon was placed in the locker.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 2, eff. September 1, 2021.

Sec. 365.004. TEMPORARY SECURE WEAPON STORAGE ADMINISTERED BY EMPLOYEE OF POLITICAL SUBDIVISION. (a) A political subdivision may provide temporary secure weapon storage operated by a designated employee of the political subdivision for a building or portion of a building in which weapons are prohibited.

(b) The weapons in temporary secure weapon storage must be held in a safe, locker, or other location that is locked and accessible only to the designated employee.

(c) If a person chooses to give to the designated employee the person's weapon for temporary secure storage, the employee shall:

(1) securely affix a claim tag to the weapon;

(2) provide the person with a claim receipt for reclaiming the weapon;

(3) record the person's name, the number of the person's driver's license or other form of identification, and the person's

telephone number; and

(4) if designated by the person placing the weapon in temporary secure weapon storage, record the name of an alternate person to whom the weapon may be released if the person is not able to reclaim the person's weapon before the 30th day after the date the weapon was placed in storage.

(d) A person may reclaim the person's weapon by showing the designated employee operating the temporary secure weapon storage:

(1) the claim receipt given to the person at the time the weapon was placed in temporary secure storage; or

(2) the person's driver's license or other form of identification.

(e) A political subdivision that provides temporary secure weapon storage under this section shall ensure that:

(1) the temporary secure weapon storage is available and monitored by a designated employee of the political subdivision at all times that the building or portion of the building is open to the public; and

(2) a person who is choosing to place the weapon in storage or retrieving the weapon from storage is not required to wait more than a reasonable period.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 2, eff. September 1, 2021.

Sec. 365.005. FEES. A political subdivision under this chapter may collect a fee of not more than $5 for the use of a self-service weapon locker or other temporary secure weapon storage.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 2, eff. September 1, 2021.

Sec. 365.006. UNCLAIMED WEAPONS. (a) A weapon that is unclaimed at the end of a business day may be removed from the self-service weapon locker or other temporary secure storage and placed in another secure location.

(b) If practicable, the political subdivision shall notify the person who placed the weapon in a self-service weapon locker or other temporary secure storage that the weapon is in the custody of the

political subdivision and is subject to forfeiture if not reclaimed before the 30th day after the date the weapon was placed in a self-service weapon locker or other temporary secure storage. If the person provided a telephone number when the weapon was placed in a self-service weapon locker or other temporary secure storage, the political subdivision shall notify the person by using that telephone number.

(c) At each location where a weapon may be placed in a self-service weapon locker or other temporary secure storage, the political subdivision shall post a sign that describes the process for reclaiming a weapon left in a self-service weapon locker or other temporary secure storage for more than one business day.

(d) The political subdivision may require identification or other evidence of ownership before returning the unclaimed weapon. On return of the weapon, the political subdivision may charge a fee of not more than $10 per day and not to exceed a total of $150 for the extended storage of the weapon.

(e) If the weapon is not reclaimed before the 30th day after the date the weapon was placed in a self-service weapon locker or other temporary secure storage, the weapon is forfeited.

(f) If the forfeited weapon may not be legally possessed in this state, the political subdivision shall turn the weapon over to local law enforcement as evidence or for destruction.

(g) If a person may legally possess the weapon in this state:

(1) the forfeited weapon may be sold at public sale by an auctioneer licensed under Chapter 1802, Occupations Code; or

(2) the law enforcement agency holding the weapon may release the weapon to another person if:

(A) the person:

(i) claims a right to or interest in the weapon and provides an affidavit confirming that the person wholly or partly owns the weapon or otherwise has a right to or interest in the weapon; or

(ii) is an alternate person designated by the person under Section 365.003(d) or 365.004(c)(4); and

(B) for a weapon that is a firearm, the law enforcement agency conducts a check of state and national criminal history record information and verifies that the person may lawfully possess a firearm under 18 U.S.C. Section 922(g).

(h) Only a firearms dealer licensed under 18 U.S.C. Section 923

may purchase a firearm at public sale under this section.

(i) Proceeds from the sale of a weapon under this section shall be transferred, after the deduction of auction costs, to the treasury of the political subdivision.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 2, eff. September 1, 2021.

CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO HEALTH AND PUBLIC SAFETY OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

Sec. 370.001. HEALTH CONTRACTS IN BORDER MUNICIPALITIES OR COUNTIES. The governing body of a municipality or county that has a boundary that is contiguous with the border between this state and the Republic of Mexico may contract with a border municipality or state in the Republic of Mexico to provide or receive health services.

Added by Acts 1991, 72nd Leg., ch. 769, Sec. 1, eff. Aug. 26, 1991.

Sec. 370.003. MUNICIPAL OR COUNTY POLICY REGARDING ENFORCEMENT OF DRUG LAWS. The governing body of a municipality, the commissioners court of a county, or a sheriff, municipal police department, municipal attorney, county attorney, district attorney, or criminal district attorney may not adopt a policy under which the entity will not fully enforce laws relating to drugs, including Chapters 481 and 483, Health and Safety Code, and federal law.

Added by Acts 1997, 75th Leg., ch. 971, Sec. 1, eff. Sept. 1, 1997.

Sec. 370.004. NOTICE OF DAMAGED FENCE. (a) A peace officer employed by a political subdivision of this state who investigates or responds to an incident in which a motor vehicle damages a fence shall, if the peace officer reasonably believes that the fence is intended to contain livestock or other animals:

(1) immediately determine the owner of the land on which the damaged fence is located; and

(2) notify the owner of the type and extent of the damage, if the owner has registered with the political subdivision in

accordance with Subsection (c).

(b) A peace officer is not liable to an owner of land or any other person for damage resulting from the peace officer's failure to notify the owner under Subsection (a).

(c) A landowner must provide an agency or department of a political subdivision that employs peace officers with the following information if the landowner would like a peace officer of that agency or department to notify the landowner of damage under Subsection (a):

(1) the landowner's name, address, and telephone number; and

(2) the location and a description of the landowner's property.

Added by Acts 2007, 80th Leg., R.S., Ch. 330 (H.B. 2931), Sec. 2, eff. September 1, 2007.

Sec. 370.005. MUNICIPAL OR COUNTY POLICY REGARDING MAINTENANCE OF PORTABLE FIRE EXTINGUISHERS IN GOVERNMENT-OWNED VEHICLES. (a) In this section, "local government" means:

(1) a county;

(2) a municipality; or

(3) an agency, department, or other division of a county or municipality.

(b) A local government that adopts an ordinance, order, or policy requiring motor vehicles owned by the local government to be equipped with portable fire extinguishers shall require maintenance to be performed on the portable fire extinguishers annually in accordance with standards that are at least as stringent as the National Fire Protection Association Standard Number 10, Portable Fire Extinguishers.

Added by Acts 2011, 82nd Leg., R.S., Ch. 125 (H.B. 564), Sec. 2, eff. May 27, 2011.

Sec. 370.006. ASSISTANCE IN MAN-MADE OR NATURAL DISASTER. (a) The governing body of a municipality, the chief of the fire department, or an emergency management director or coordinator designated for the municipality under Section 418.1015, Government

Code, may request or accept any care, assistance, or advice described by Section 79.003(a), Civil Practice and Remedies Code, including the loan or operation of construction equipment or other heavy equipment by the owner or operator of the equipment, as applicable, or the donation of resources to the extent the governing body, chief, or emergency management director or coordinator believes necessary to address a man-made or natural disaster.

(b) The commissioners court of a county, the county judge, the county fire marshal, an incorporated volunteer fire department under contract with a county under Section 352.001, a volunteer fire department described by Section 352.005, as applicable, or an emergency management director or coordinator designated for the county under Section 418.1015, Government Code, may request or accept any care, assistance, or advice described by Section 79.003(a), Civil Practice and Remedies Code, including the loan or operation of construction equipment or other heavy equipment by the owner or operator of the equipment, as applicable, or the donation of resources to the extent the commissioners court, county judge, county fire marshal, volunteer fire department, or emergency management director or coordinator believes necessary to address a man-made or natural disaster.

(c) A person as defined by Section 79.001, Civil Practice and Remedies Code, who provides care, assistance, or advice to a municipality or county in the manner described by this section is immune from civil liability as provided by Section 79.003, Civil Practice and Remedies Code.

(d) Subsection (a) or (b) does not authorize the acceptance of care, assistance, or advice in violation of any other law or contractual agreement that prohibits the acceptance of that care, assistance, or advice.

Added by Acts 2013, 83rd Leg., R.S., Ch. 141 (H.B. 487), Sec. 1, eff. May 24, 2013.

Sec. 370.007. PARTICIPATION AGREEMENT FOR OVERDOSE MAPPING. (a) A local health authority or law enforcement agency shall enter into a participation agreement with an entity that maintains a computerized system for mapping overdoses of one or more controlled substances for public safety purposes.

(b) A local health authority or law enforcement agency shall provide information received under Section 161.045, Health and Safety Code, to the entity with which the authority or agency has a participation agreement under Subsection (a) for purposes of entering the information into the computerized system. The local health authority or law enforcement agency is not required to provide information received under Section 161.045, Health and Safety Code, regarding a controlled substance to the entity with which the authority or agency has a participation agreement if the entity does not maintain an overdose map that includes the controlled substance.

(c) A local health authority or law enforcement agency or an employee of a local health authority or law enforcement agency is not subject to civil or criminal liability for providing information received under Section 161.045, Health and Safety Code, to an entity pursuant to a participation agreement under this section.

(d) Information provided to an entity pursuant to a participation agreement under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

(e) This section does not waive sovereign immunity to suit or liability.

Added by Acts 2023, 88th Leg., R.S., Ch. 204 (S.B. 1319), Sec. 2, eff. September 1, 2023.

Sec. 370.008. JUVENILE CURFEWS PROHIBITED. (a) Notwithstanding any other law, a political subdivision may not adopt or enforce an order, ordinance, or other measure that imposes a curfew to regulate the movements or actions of persons younger than 18 years of age.

(b) This section does not apply to a curfew implemented under Chapter 418, Government Code, for purposes of emergency management.

Added by Acts 2023, 88th Leg., R.S., Ch. 425 (H.B. 1819), Sec. 6, eff. September 1, 2023.
Redesignated from Local Government Code, Section 370.007 by Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 22.001(27), eff. September 1, 2025.

Sec. 370.009. APPOINTING OR EMPLOYING CERTAIN VETERANS TO

POSITION REQUIRING LICENSURE. (a) In this section, "commission" means the Texas Commission on Law Enforcement.

(b) Notwithstanding any other law, a political subdivision that appoints or employs a person to hold a position that requires the person to be licensed by the commission may appoint or employ a legal permanent resident of the United States to hold the position if the person is an honorably discharged veteran of the armed forces of the United States with at least two years of service before discharge and holds the appropriate license issued by the commission.

(c) A political subdivision may not appoint or employ a person under this section to hold a supervisory position until the person becomes a United States citizen.

Added by Acts 2023, 88th Leg., R.S., Ch. 1049 (S.B. 252), Sec. 2, eff. September 1, 2023.
Redesignated from Local Government Code, Section 370.007 by Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 22.001(28), eff. September 1, 2025.

TITLE 12. PLANNING AND DEVELOPMENT
SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT
CHAPTER 371. MUNICIPAL PLANNING AND GROWTH
SUBCHAPTER A. PROMOTIONAL ADVERTISING BY POPULOUS MUNICIPALITIES

Sec. 371.001. AUTHORITY TO APPROPRIATE; CREATION OF BOARD. (a) The governing body of a municipality with a population of 1.3 million or less may appropriate from its general fund an amount not to exceed one percent of the general fund budget for that year for the purpose of advertising the municipality and promoting its growth and development.

(b) Before the governing body may spend money appropriated under this section, the governing body shall create a citizens' advisory board in accordance with this subchapter. The governing body may give the board the name Municipal Board of Development or another name.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 102, eff. Sept. 1, 1991. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 184, eff. September 1, 2023.

Sec. 371.002. COMPOSITION OF BOARD. (a) The governing body of the municipality shall appoint five members to the board.

(b) A board member serves two-year terms and may not receive compensation for service on the board. A board member serves only in an advisory capacity and is not a public officer or agent of the municipality.

(c) A member's service on the board does not invalidate a contract with the municipality in which the member has an interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 371.003. DUTIES OF BOARD. (a) The board shall:

(1) investigate various methods of advertising and promoting the municipality; and

(2) recommend to the governing body of the municipality:

(A) the best method of spending available funds for advertisement and promotion; and

(B) the amount to be appropriated in the next budget of the municipality for advertisement and promotion.

(b) A recommendation of the board is not binding on the governing body of the municipality. The governing body shall determine the methods of advertising and promotion to be used and, subject to this subchapter, the amount to be appropriated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 371.004. MANAGEMENT OF BOARD. To carry out this subchapter, the governing body of the municipality may appoint a person to manage the promotion, development, tourism, and convention activities of the municipality or may designate an official of the municipality to perform that function. The person appointed or designated shall serve ex officio as secretary of the board created for the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 371.005. CUMULATIVE EFFECT. This subchapter is cumulative of powers that a municipality obtains under its charter and does not impair such a power.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. APPROPRIATIONS FOR PROMOTIONAL ADVERTISING BY GENERAL-LAW MUNICIPALITIES

Sec. 371.021. APPROPRIATION OF FUNDS FOR ADVERTISING. (a) The governing body of a general-law municipality may appropriate from its general fund an amount not to exceed five cents per $100 assessed valuation for the purpose of advertising the municipality and promoting its growth and development.

(b) Before the governing body may appropriate money under this section, a majority of voters voting in an election on the issue must approve the authority of the governing body to make appropriations under this section not to exceed the limit imposed by Subsection (a).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. JOINT MUNICIPAL PLANNING

Sec. 371.041. PLANNING; FUNDING. A municipality may compile statistics, conduct studies, and formulate plans related to future growth and development of the municipality. The municipality must pass an ordinance authorizing the expenditure of funds for those purposes before making the expenditures.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 371.042. CREATION OF JOINT PLANNING COMMISSION. (a) If the area in which a municipality may exercise zoning authority is adjacent to any area in which one or more other municipalities may exercise zoning authority, the municipality may participate in a joint planning commission with one or more of the other municipalities. To participate in a joint planning commission, a municipality must adopt the provisions of this subchapter.

(b) The governing bodies of each municipality participating in a joint planning commission shall appoint an equal number of

representatives to the planning commission.

(c) The planning commission shall meet and determine the area under its jurisdiction, describe the area by metes and bounds in writing and on a map, and file a copy of the description with the county clerk of the county in which the municipalities are located.

(d) A municipality participating in the planning commission may contribute to or spend public funds for the commission to achieve the purposes of the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 371.043. MASTER PLAN; OTHER DUTIES. (a) A joint planning commission shall prepare an organized master plan for the orderly growth of the area under the jurisdiction of the commission. In addition to other provisions, the plan must include:

(1) highway design;

(2) street and park layout; and

(3) designation of areas for the location of schools, residences, business and commerce, industry, and water reservoirs.

(b) For a master plan to be effective, each municipality in the area must approve the plan.

(c) To prepare the master plan, a joint planning commission may:

(1) employ engineers, clerks, secretaries, and other administrative and field personnel; and

(2) make aerial photographs, land surveys, and topography studies.

(d) A joint planning commission shall:

(1) keep a complete record of all of its expenditures, meetings, activities, and plans;

(2) submit to each municipality participating in the commission regular reports stating the commission's income, expenditures, accounts, and progress; and

(3) prepare and submit to each municipality participating in the commission an annual audit of expenditures, accounts, and funds under the supervision of the commission.

(e) A joint planning commission shall make any report, account, or record requested by ordinance or resolution by a municipality participating in the commission. Additionally, the commission shall

perform any other duty requested by ordinance or resolution by a municipality if the duty is not inconsistent with the purposes of this subchapter and the request is approved by a majority of the governing bodies of the municipalities participating in the commission.

(f) Any duty imposed on or power granted to a joint planning commission under this section must be approved by ordinance by each municipality participating in the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 371.044. OPEN MEETINGS AND RECORDS. Meetings of a joint planning commission are open to the public. Records, minutes, books, and accounts of the commission are subject to public inspection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 371.045. CUMULATIVE EFFECT. Authority under this subchapter is cumulative of other authority that a municipality has to expend public funds from the municipal treasury for the purposes of municipal planning and does not limit that other authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 372. IMPROVEMENT DISTRICTS IN MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. PUBLIC IMPROVEMENT DISTRICTS

Sec. 372.001. SHORT TITLE. This subchapter may be cited as the Public Improvement District Assessment Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 372.0015. DEFINITIONS. In this subchapter:

(1) "Extraterritorial jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42.

(2) "Hotel" has the meaning assigned by Section 156.001, Tax Code. The term includes a property that begins operating as a hotel after the establishment of a public improvement district that

includes the property.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 76(b), eff. Aug. 28, 1989. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 206 (S.B. 1921), Sec. 1, eff. May 28, 2025.

Sec. 372.002. EXERCISE OF POWERS. Powers granted under this subchapter may be exercised by a municipality or county in which the governing body of the municipality or county initiates or receives a petition requesting the establishment of a public improvement district. A petition must comply with the requirements of Section 372.005.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 2, eff. June 16, 2001.

Sec. 372.003. AUTHORIZED IMPROVEMENTS. (a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction. A project may be undertaken in the municipality or county or the municipality's extraterritorial jurisdiction.

(b) A public improvement project may include:

(1) landscaping;

(2) erection of fountains, distinctive lighting, and signs;

(3) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way;

(4) construction or improvement of pedestrian malls;

(5) acquisition and installation of pieces of art;

(6) acquisition, construction, or improvement of libraries;

(7) acquisition, construction, or improvement of off-street parking facilities;

(8) acquisition, construction, improvement, or rerouting of mass transportation facilities;

(9) acquisition, construction, or improvement of water,

geothermal water conveyance, wastewater, or drainage facilities or improvements;

(10) the establishment or improvement of parks;

(11) projects similar to those listed in Subdivisions (1)-(10);

(12) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;

(13) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement;

(14) payment of expenses incurred in the establishment, administration, and operation of the district; and

(15) the development, rehabilitation, or expansion of affordable housing.

(b-1) Payment of expenses under Subsection (b)(14) may also include expenses related to the operation and maintenance of mass transportation facilities.

(b-2) Payment of expenses under Subsection (b)(9) may also include expenses related to the operation and maintenance of a geothermal water conveyance facility or improvement.

(c) A public improvement project may be limited to the provision of the services described by Subsection (b)(13).

(d) A county may establish a public improvement district unless within 30 days of a county's action to approve such a district, a home rule municipality objects to its establishment within the municipality's corporate limits or extraterritorial jurisdiction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(c), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 3, eff. June 16, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 340 (H.B. 1029), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 970 (H.B. 1400), Sec. 1, eff. September 1, 2011.

Acts 2025, 89th Leg., R.S., Ch. 455 (H.B. 4370), Sec. 1, eff. September 1, 2025.

Sec. 372.0035. COMMON CHARACTERISTIC OR USE FOR PROJECTS IN MUNICIPALITIES. (a) Repealed by Acts 2025, 89th Leg., R.S., Ch. 206 (S.B. 1921), Sec. 4, eff. May 28, 2025.

(a-1) This section applies only to a public improvement district established by a municipality under this subchapter and solely composed of territory in which the only businesses are one or more hotels.

(b) A municipality may undertake a project that confers a special benefit on areas that share a common characteristic or use. The areas may be noncontiguous.

(c) This section does not prohibit a municipality from or limit a municipality to establishing a district that includes a noncontiguous area authorized by this subchapter.

(d) A municipality that undertakes a project under this section may:

(1) adopt procedures for the collection of assessments under this chapter that are consistent with the municipality's procedures for the collection of a hotel occupancy tax under Chapter 351, Tax Code; and

(2) pursue remedies for the failure to pay an assessment under this chapter that are available to the municipality for failure to pay a hotel occupancy tax under Chapter 351, Tax Code.

(e) Notwithstanding Section 372.003, a district created after September 1, 2019, may undertake a project under this section only for advertising, promotion, or business recruitment directly related to hotels.

(e-1) Repealed by Acts 2025, 89th Leg., R.S., Ch. 206 (S.B. 1921), Sec. 4, eff. May 28, 2025.

Added by Acts 2011, 82nd Leg., R.S., Ch. 970 (H.B. 1400), Sec. 2, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1330 (S.B. 660), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 447 (S.B. 837), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 59 (S.B. 385), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 60 (S.B. 642), Sec. 1, eff. May 20, 2019.

Acts 2019, 86th Leg., R.S., Ch. 244 (H.B. 1417), Sec. 1, eff. May 28, 2019.

Acts 2019, 86th Leg., R.S., Ch. 994 (H.B. 1135), Sec. 1, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 995 (H.B. 1136), Sec. 1, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 995 (H.B. 1136), Sec. 2, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 997 (H.B. 1474), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1271 (S.B. 386), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 185(a), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 185(b), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 185(c), eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 206 (S.B. 1921), Sec. 2, eff. May 28, 2025.

Acts 2025, 89th Leg., R.S., Ch. 206 (S.B. 1921), Sec. 4, eff. May 28, 2025.

Sec. 372.004. COMBINED IMPROVEMENTS. An improvement project may consist of an improvement on more than one street or of more than one type of improvement. A project described by this section may be included in one proceeding and financed as one improvement project.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(d), eff. Aug. 28, 1989.

Sec. 372.005. PETITION. (a) A petition for the establishment of a public improvement district must state:

(1) the general nature of the proposed improvement;

(2) the estimated cost of the improvement;

(3) the boundaries of the proposed assessment district;

(4) the proposed method of assessment, which may specify included or excluded classes of assessable property;

(5) the proposed apportionment of cost between the public improvement district and the municipality or county as a whole;

(6) whether the management of the district is to be by the municipality or county, the private sector, or a partnership between the municipality or county and the private sector;

(7) that the persons signing the petition request or concur with the establishment of the district; and

(8) that an advisory body may be established to develop and recommend an improvement plan to the governing body of the municipality or county.

(b) The petition is sufficient if signed by:

(1) owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and

(2) record owners of real property liable for assessment under the proposal who:

(A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or

(B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

(b-1) A person is a qualified petitioner under Subsection (b-2) if the person:

(1) is employed in a management position responsible for overseeing the operations of a hotel, including:

(A) the owner or general manager of a hotel;

(B) a regional manager who oversees the operations of a hotel; or

(C) an employee of a management company who oversees the operation of a hotel; and

(2) provides a written statement that the person is authorized to enter into a binding agreement concerning the operation of a hotel on behalf of the owner of a hotel.

(b-2) Notwithstanding Subsection (b), a petition for the establishment of a public improvement district described by Section 372.0035(a-1) is sufficient only if the petition is:

(1) signed by qualified petitioners who represent more than 60 percent of the appraised value of hotel property liable for

assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located, and who:

(A) represent more than 60 percent of all hotels that are liable for assessment under the proposal; or

(B) represent more than 60 percent of the area of all real property that is liable for assessment under the proposal; and

(2) accompanied by the written statement described by Subsection (b-1)(2) for each qualified petitioner signing the petition.

(c) The petition may be filed with the municipal secretary or other officer performing the functions of the municipal secretary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(e), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 4, eff. June 16, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 447 (S.B. 837), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 995 (H.B. 1136), Sec. 3, eff. June 14, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 185(d), eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 206 (S.B. 1921), Sec. 3, eff. May 28, 2025.

Sec. 372.0055. DEFERRED ASSESSMENT; ESTIMATE. If a proposed improvement under Section 372.005 includes a deferred assessment, before holding the hearing required by Section 372.009, the governing body of the municipality or county must estimate:

(1) the appraised value of taxable real property liable for assessment in the district; and

(2) the cost of the improvement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 970 (H.B. 1400), Sec. 3, eff. September 1, 2011.

Sec. 372.006. FINDINGS. If a petition that complies with this subchapter is filed, the governing body of the municipality or county may make findings by resolution as to the advisability of the

proposed improvement, its estimated cost, the method of assessment, and the apportionment of cost between the proposed improvement district and the municipality or county as a whole.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 5, eff. June 16, 2001.

Sec. 372.007. FEASIBILITY REPORT. (a) Before holding the hearing required by Section 372.009, the governing body of the municipality may use the services of municipal employees, the governing body of the county may use the services of county employees, or the governing body of the municipality or county may employ consultants to prepare a report to determine whether an improvement should be made as proposed by petition or otherwise or whether the improvement should be made in combination with other improvements authorized under this subchapter. The governing body may also require that a preliminary estimate of the cost of the improvement or combination of improvements be made.

(b) For the purpose of determining the feasibility and desirability of an improvement district, the governing body may take other preliminary steps before the hearing required by Section 372.009, before establishing a public improvement district, or before entering into a contract.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 6, eff. June 16, 2001.

Sec. 372.008. ADVISORY BODY. (a) After receiving a petition that complies with Section 372.005, the governing body of the municipality or county may appoint an advisory body with the responsibility of developing and recommending an improvement plan to the governing body.

(b) The composition of the advisory body must include:

(1) owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and

(2) record owners of real property liable for assessment under the proposal who:

(A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or

(B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 7, eff. June 16, 2001.

Sec. 372.0081. ADVISORY BODY MEETINGS BY TELECOMMUNICATION DEVICE. (a) Notwithstanding any other law, if a member of an advisory body appointed under Section 372.008 is physically present at a meeting of the advisory body, any number of the other members of the advisory body may attend the meeting by use of telephone conference call, video conference call, or other similar telecommunication device. A member of the advisory body who attends a meeting via a telecommunication device is considered present for purposes of constituting a quorum, voting, and any other form of participation in the meeting. This subsection applies regardless of the subject of the meeting or topics considered at the meeting.

(b) If an advisory body holds a meeting using a telecommunication device in the manner provided by Subsection (a), the advisory body must provide two-way audio communication between board members attending the meeting and, if the two-way audio communication link with a member is disrupted, stop the meeting until the link is reestablished.

Added by Acts 2025, 89th Leg., R.S., Ch. 326 (S.B. 2145), Sec. 1, eff. September 1, 2025.

Sec. 372.009. HEARING. (a) A public improvement district may be established and improvements provided by the district may be financed under this subchapter only after the governing body of the municipality or county holds a public hearing on the advisability of the improvement.

(b) The hearing may be adjourned from time to time until the governing body makes findings by resolution as to:

(1) the advisability of the improvement;

(2) the nature of the improvement;

(3) the estimated cost of the improvement;

(4) the boundaries of the public improvement district;

(5) the method of assessment; and

(6) the apportionment of costs between the district and the municipality or county as a whole.

(c) Notice of the hearing must be given in a newspaper of general circulation in the municipality or county. If any part of the improvement district is to be located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the notice must also be given in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is to be located or in which the improvements are to be undertaken. The final publication of notice must be made before the 15th day before the date of the hearing. The notice must state:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement;

(3) the estimated cost of the improvement;

(4) the boundaries of the proposed assessment district;

(5) the proposed method of assessment; and

(6) the proposed apportionment of cost between the improvement district and the municipality or county as a whole.

(d) Written notice containing the information required by Subsection (c) must be mailed before the 15th day before the date of the hearing. The notice must be addressed to "Property Owner" and mailed to the current address of the owner, as reflected on tax rolls, of property subject to assessment under the proposed public improvement district.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(f), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 8, eff. June 16, 2001.

Sec. 372.010. IMPROVEMENT ORDER. (a) During the six-month period after the date of the final adjournment of the hearing under Section 372.009, the governing body of the municipality or county may authorize an improvement district if, by majority vote of all members of the governing body, the members adopt a resolution authorizing the

district in accordance with its finding as to the advisability of the improvement. Except for a resolution authorizing a district described by Section 372.0035, the resolution must provide that the authorization takes effect on the date the resolution is adopted.

(b) Not later than the seventh day after the date the governing body of a municipality or county adopts a resolution under Subsection (a), the municipality or county shall file a copy of the resolution with the county clerk of each county in which all or part of the improvement district is located.

(c) Actual construction of an improvement may not begin until after the 20th day after the date the authorization takes effect and may not begin if during that 20-day period written protests signed by at least two-thirds of the owners of record of property within the improvement district or by the owners of record of property comprising at least two-thirds of the total area of the district are filed with the municipal or county secretary or other officer performing the duties of the municipal or county secretary. A person whose name appears on a protest may withdraw the name from the protest at any time before the governing body of the municipality or county convenes to determine the sufficiency of the protest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(g), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 9, eff. June 16, 2001.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 253 (H.B. 1543), Sec. 1, eff. September 1, 2021.

Sec. 372.011. DISSOLUTION. A public hearing may be called and held in the same manner as a hearing under Section 372.009 for the purpose of dissolving a district if a petition requesting dissolution is filed and the petition contains the signatures of at least enough property owners in the district to make a petition sufficient under Section 372.005(b). If the district is dissolved, the district nonetheless shall remain in effect for the purpose of meeting obligations of indebtedness for improvements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 372.012. AREA OF DISTRICT. The area of a public improvement district to be assessed according to the findings of the governing body of the municipality or county may be less than the area described in the proposed boundaries stated by the notice under Section 372.009. The area to be assessed may not include property not described by the notice as being within the proposed boundaries of the district unless a hearing is held to include the property and notice for the hearing is given in the same manner as notice under Section 372.009.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 10, eff. June 16, 2001.

Sec. 372.0121. INCLUSION OF PROPERTY IN COMMON CHARACTERISTIC PUBLIC IMPROVEMENT DISTRICT. (a) Notwithstanding Section 372.012 or any other requirement in this chapter, the governing body of a municipality may include property in a public improvement district described by Section 372.0035 after the establishment of the district if:

(1) the property is a hotel; and

(2) a sufficient number of the record owners of the real property currently included and proposed to be included in the district have consented to be included in the district by signing the original petition to establish the district or by signing a petition or written consent to include property in the district.

(b) Notwithstanding Subsection (a), no newly constructed hotel property may be added to the district unless the record owner of the property consents to its inclusion.

(c) For purposes of Subsection (a)(2), the number of consenting record owners is sufficient if the record owners own more than 60 percent of appraised value of taxable real property liable for assessment in the district, as determined by the current appraisal roll of the appraisal district in which the property is located, and:

(1) constitute more than 60 percent of all record owners of taxable real property liable for assessment in the district; or

(2) own, in aggregate, more than 60 percent of the area of all taxable real property liable for assessment in the district.

Added by Acts 2019, 86th Leg., R.S., Ch. 995 (H.B. 1136), Sec. 4, eff. June 14, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 587 (S.B. 804), Sec. 1, eff. June 14, 2021.

Sec. 372.013. SERVICE PLAN. (a) The advisory body shall prepare an ongoing service plan and present the plan to the governing body of the municipality or county for review and approval. The governing body may approve the plan only by ordinance or order. The governing body may assign responsibility for the plan to another entity in the absence of an advisory body.

(b) The service plan must:

(1) cover a period of at least five years;

(2) define the annual indebtedness and the projected costs for improvements; and

(3) include a copy of the notice form required by Section 5.014, Property Code.

(c) Not later than the seventh day after the date the governing body of a municipality or county approves a service plan, the municipality or county shall file a copy of the plan with the county clerk of each county in which all or part of the public improvement district is located.

(d) The governing body of the municipality or county shall review and update the service plan annually for the purpose of determining the annual budget for improvements. Except for the service plan for a district described by Section 372.0035, the governing body may amend or update the plan only by ordinance or order.

(e) Not later than the seventh day after the date the governing body of a municipality or county amends or updates the service plan, including the notice form required by Section 5.014, Property Code, the municipality or county shall file a copy of the amended or updated plan with the county clerk of each county in which all or part of the public improvement district is located.

(f) Not later than the seventh day after the date the governing body of a municipality or county approves, amends, or updates a service plan, the municipality or county shall post a copy of the service plan, including a copy of the notice form required by Section 5.014, Property Code, on the Internet website maintained or used by the municipality or county for the purposes of Section 26.18, Tax

Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 11, eff. June 16, 2001. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 253 (H.B. 1543), Sec. 2, eff. September 1, 2021.

Acts 2025, 89th Leg., R.S., Ch. 53 (S.B. 1106), Sec. 1, eff. January 1, 2026.

Sec. 372.014. ASSESSMENT PLAN; PAYMENT BY EXEMPT JURISDICTIONS. (a) An assessment plan must be included in the annual service plan.

(b) The municipality or county is responsible for payment of assessments against exempt municipal or county property in the district. Payment of assessments by other exempt jurisdictions must be established by contract. An assessment paid by the municipality or county under this subsection is considered to have been paid by special assessment for the purposes of Subsection (a).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(h), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 12, eff. June 16, 2001.

Sec. 372.015. DETERMINATION OF ASSESSMENT. (a) The governing body of the municipality or county shall apportion the cost of an improvement to be assessed against property in an improvement district. The apportionment shall be made on the basis of special benefits accruing to the property because of the improvement.

(b) Cost of an improvement may be assessed:

(1) equally per front foot or square foot;

(2) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or

(3) in any other manner that results in imposing equal shares of the cost on property similarly benefitted.

(c) The governing body may establish by ordinance or order:

(1) reasonable classifications and formulas for the apportionment of the cost between the municipality or county and the

area to be assessed; and

(2) the methods of assessing the special benefits for various classes of improvements.

(d) The amount of assessment for each property owner may be adjusted following the annual review of the service plan.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 13, eff. June 16, 2001.

Sec. 372.016. PROPOSED ASSESSMENT ROLL. (a) After the total cost of an improvement is determined, the governing body of the municipality or county shall prepare a proposed assessment roll. The roll must state the assessment against each parcel of land in the district, as determined by the method of assessment chosen by the municipality or county under this subchapter.

(b) The governing body shall file the proposed assessment roll with the municipal secretary or other officer performing the functions of the municipal secretary or in a district formed by a county, the county tax assessor-collector. The proposed assessment roll is subject to public inspection. The governing body shall require the municipal secretary or other officer or county tax assessor-collector to publish notice of the governing body's intention to consider the proposed assessments at a public hearing. The notice must be published in a newspaper of general circulation in the municipality or county before the 10th day before the date of the hearing. If any part of the improvement district is located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the notice must also be published, before the 10th day before the date of the hearing, in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is located or in which the improvements are to be undertaken. The notice must state:

(1) the date, time, and place of the hearing;

(2) the general nature of the improvement;

(3) the cost of the improvement;

(4) the boundaries of the assessment district; and

(5) that written or oral objections will be considered at the hearing.

(c) When the proposed assessment roll is filed under Subsection (b), the municipal secretary or other officer shall mail to the owners of property liable for assessment a notice of the hearing. The notice must contain the information required by Subsection (b) and the secretary or other officer shall mail the notice to the last known address of the property owner. The failure of a property owner to receive notice does not invalidate the proceeding.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(i), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 14, eff. June 16, 2001.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 53 (S.B. 1106), Sec. 2, eff. January 1, 2026.

Acts 2025, 89th Leg., R.S., Ch. 53 (S.B. 1106), Sec. 3, eff. January 1, 2026.

Sec. 372.017. LEVY OF ASSESSMENT. (a) At or on the adjournment of the hearing referred to by Section 372.016 on proposed assessments, the governing body of the municipality or county must hear and pass on any objection to a proposed assessment. The governing body may amend a proposed assessment on any parcel.

(b) After all objections have been heard and the governing body has passed on the objections, the governing body by ordinance or order shall levy the assessment as a special assessment on the property. The governing body by ordinance or order shall specify the method of payment of the assessment. The governing body may defer an assessment until a date the governing body specifies in the ordinance or order. The governing body may provide that assessments be paid in periodic installments, at an interest rate and for a period approved by the governing body. The provision that assessments be paid in periodic installments may, but is not required to, result in level annual installment payments. The installments must be in amounts necessary to meet annual costs for improvements and must continue for:

(1) the period necessary to retire the indebtedness on the improvements; or

(2) the period approved by the governing body for the payment of the installments.

(c) Not later than the seventh day after the date the governing body levies an assessment under Subsection (b), the governing body shall submit the assessment roll for each public improvement district established under this chapter to each appraisal district in which property subject to assessment under the public improvement district is located. The assessment roll must state:

(1) the total assessment levied against each parcel of land in the improvement district under Subsection (b);

(2) the amount of the annual assessment; and

(3) the amount of each periodic installment, if applicable.

(d) The governing body shall submit an updated assessment roll for each public improvement district established under this chapter to each appraisal district in which property subject to assessment under the public improvement district is located not later than the seventh day after the date the governing body makes:

(1) a supplemental assessment under Section 372.019; or

(2) a reassessment or new assessment under Section 372.020.

(e) An assessment roll submitted to an appraisal district under this section must be in an electronic format capable of being electronically incorporated into the property tax database maintained by each appraisal district under Section 26.17, Tax Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 15, eff. June 16, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 320 (H.B. 621), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 970 (H.B. 1400), Sec. 4, eff. September 1, 2011.

Acts 2025, 89th Leg., R.S., Ch. 53 (S.B. 1106), Sec. 4, eff. January 1, 2026.

Sec. 372.0175. CONTRACTS FOR COLLECTION OF ASSESSMENTS. The governing body of a municipality or county may contract with the governing body of another taxing unit, as defined by Section 1.04, Tax Code, or the board of directors of an appraisal district to perform the duties of the municipality or county relating to collection of special assessments levied under this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1211 (S.B. 422), Sec. 1,

eff. June 17, 2011.

Sec. 372.018. INTEREST ON ASSESSMENT; LIEN. (a) An assessment bears interest at the rate specified by the governing body of the municipality or county beginning at the time or times or on the occurrence of one or more events specified by the governing body. If general obligation bonds, revenue bonds, time warrants, or temporary notes are issued to finance the improvement for which the assessment is assessed, the interest rate for that assessment may not exceed a rate that is one-half of one percent higher than the actual interest rate paid on the debt. Interest on the assessment between the effective date of the ordinance or order levying the assessment and the date the first installment is payable shall be added to the first installment. The interest on any delinquent installment shall be added to each subsequent installment until all delinquent installments are paid.

(b) An assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is:

(1) a first and prior lien against the property assessed;

(2) superior to all other liens and claims except liens or claims for state, county, school district, or municipality ad valorem taxes; and

(3) a personal liability of and charge against the owners of the property regardless of whether the owners are named.

(c) The lien is effective from the date of the ordinance or order levying the assessment until the assessment is paid.

(d) The lien runs with the land and that portion of an assessment payment that has not yet come due is not eliminated by foreclosure of an ad valorem tax lien.

(e) The assessment lien may be enforced by the governing body in the same manner that an ad valorem tax lien against real property may be enforced by the governing body. Foreclosure of accrued installments does not eliminate the outstanding principal balance of the assessment. Any purchaser of the property in foreclosure takes the property subject to the assessment lien and any associated obligations.

(f) Delinquent installments of the assessment shall incur interest, penalties, and attorney's fees in the same manner as delinquent ad valorem taxes. The owner of assessed property may pay

at any time all or any part of the assessment, with interest that has accrued on the assessment, on any lot or parcel.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(j), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 16, eff. June 16, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 320 (H.B. 621), Sec. 2, eff. June 19, 2009.

Sec. 372.019. SUPPLEMENTAL ASSESSMENTS. After notice and a hearing, the governing body of the municipality or county may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement. Notice must be given and the hearing held under this section in the same manner as required by Sections 372.016 and 372.017.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 17, eff. June 16, 2001.

Sec. 372.020. REASSESSMENT. The governing body of the municipality or county may make a reassessment or new assessment of a parcel of land if:

(1) a court of competent jurisdiction sets aside an assessment against the parcel;

(2) the governing body determines that the original assessment is excessive; or

(3) on the written advice of counsel, the governing body determines that the original assessment is invalid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 18, eff. June 16, 2001.

Sec. 372.021. SPECIAL IMPROVEMENT DISTRICT FUND. (a) A municipality or county that intends to create a public improvement district may by ordinance or order establish a special improvement district fund in the municipal or county treasury.

(b) The municipality or county annually may levy a tax to

support the fund.

(c) The fund may be used to:

(1) pay the costs of planning, administration, and an improvement authorized by this subchapter;

(2) prepare preliminary plans, studies, and engineering reports to determine the feasibility of an improvement; and

(3) if ordered by the governing body of the municipality or county, pay the initial cost of the improvement until temporary notes, time warrants, or improvement bonds have been issued and sold.

(d) The fund is not required to be budgeted for expenditure during any year, but the amount of the fund must be stated in the municipality's or county's annual budget. The amount of the fund must be based on an annual service plan that describes the public improvements for the fiscal year.

(e) A grant-in-aid or contribution made to the municipality or county for the planning and preparation of plans for an improvement authorized under this subchapter may be credited to the special improvement district fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 19, eff. June 16, 2001.

Sec. 372.022. SEPARATE FUNDS. If bonds are issued, a separate public improvement district fund shall be created in the municipal or county treasury for each district. Proceeds from the sale of bonds, temporary notes, and time warrants, and other sums appropriated to the fund by the governing body of the municipality or county shall be credited to the fund. The fund may be used solely to pay costs incurred in making an improvement. When an improvement is completed, the balance of the part of the assessment that is for improvements shall be transferred to the fund established for the retirement of bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 20, eff. June 16, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 320 (H.B. 621), Sec. 3, eff. June 19, 2009.

Sec. 372.023. PAYMENT OF COSTS. (a) Costs of improvements may be paid or reimbursed by any combination of the methods described by this section if the improvements are dedicated, conveyed, leased, or otherwise provided to or for the benefit of:

(1) a municipality or county;

(2) a political subdivision or other entity exercising the powers granted under this subchapter as authorized by other law;

(3) an entity that:

(A) is approved by the governing body of an entity described by Subdivision (1) or (2); and

(B) is authorized by order, ordinance, resolution, or other official action to act for an entity described by Subdivision (1) or (2); or

(4) an entity subject to the regulatory jurisdiction of the Public Utility Commission of Texas.

(a-1) The payment or reimbursement may be provided before or after a method of payment or reimbursement authorized by this section is entered into or issued.

(b) A cost payable by the municipality or county as a whole may be paid from general funds available for the purpose or other available general funds.

(c) A cost payable from a special assessment that has been paid in full shall be paid from that assessment.

(d) Costs payable from a special assessment that is payable in installments may be paid by any combination of the following methods:

(1) under an installment sales contract or a reimbursement agreement between the municipality or county and the person who acquires, installs, or constructs the improvements;

(2) as provided by a temporary note or time warrant issued by the municipality or county and payable to the person who acquires, installs, or constructs the improvements; or

(3) by the issuance and sale of bonds under Section 372.024.

(d-1) An installment sales contract, reimbursement agreement, temporary note, or time warrant described by Subsection (d) may be assigned by the payee without the consent of the municipality or county.

(e) The interest rate on unpaid amounts due under an installment sales contract, reimbursement agreement, temporary note, or time warrant described by Subsection (d):

(1) may not exceed, for a period of not more than five years, as determined by the governing body of the municipality or county, five percent above the highest average index rate for tax-exempt bonds reported in a daily or weekly bond index approved by the governing body and reported in the month before the date the obligation was incurred; and

(2) after the period described by Subdivision (1), may not exceed two percent above the bond index rate described by Subdivision (1).

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 384, Sec. 2, eff. June 17, 2011.

(g) The cost of more than one improvement may be paid:

(1) from a single issue and sale of bonds without other consolidation proceedings before the bond issue; or

(2) under a single installment sales contract, reimbursement agreement, temporary note, or time warrant.

(h) The costs of any improvement include interest payable on a temporary note or time warrant and all costs incurred in connection with the issuance of bonds under Section 372.024 and may be included in the assessments against the property in the improvement district as provided by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(k), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 21, eff. June 16, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 320 (H.B. 621), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 384 (S.B. 412), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 384 (S.B. 412), Sec. 2, eff. June 17, 2011.

Acts 2025, 89th Leg., R.S., Ch. 455 (H.B. 4370), Sec. 2, eff. September 1, 2025.

Sec. 372.024. GENERAL OBLIGATION AND REVENUE BONDS. General obligation bonds issued to pay costs under Section 372.023(d) must be issued under the provisions of Subtitles A and C, Title 9, Government Code. Revenue bonds issued to pay costs under that subsection may be

issued from time to time in one or more series and are to be payable from and secured by liens on all or part of the revenue derived from improvements authorized under this subchapter, including revenue derived from installment payments of special assessments.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.330, eff. Sept. 1, 2001.

Sec. 372.025. TERMS AND CONDITIONS OF BONDS. (a) Revenue bonds may be issued to mature serially or in any other manner but must mature not later than 40 years after their date. A provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms and conditions specified in the ordinance or order authorizing the issuance of the bonds.

(b) The bonds shall be executed and the bonds and interest coupons appertaining to them are negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code (Section 1.101 et seq., Business & Commerce Code). The ordinance or order authorizing the issuance of the bonds must specify:

(1) whether the bonds are issued registrable as to principal alone or as to both principal and interest;

(2) whether the bonds are redeemable before maturity;

(3) the form, denomination, and manner of issuance;

(4) the terms, conditions, and other details applying to the bonds including the price, terms, and interest rates on the bonds; and

(5) the manner of sale of the bonds.

(c) The ordinance or order authorizing the issuance of the bonds may specify that the proceeds from the sale of the bonds:

(1) be used to pay interest on the bonds during and after the period of acquisition or construction of an improvement financed through the sale of the bonds;

(2) be used for creating a reserve fund for payment of the principal of and interest on the bonds and for creating other funds; and

(3) may be placed in time deposit or invested, until needed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 22, eff. June 16, 2001.

Sec. 372.026. PLEDGES. (a) In this section, "obligation" means bonds, temporary notes, time warrants, or an obligation under an installment sale contract or reimbursement agreement.

(b) For the payment of obligations issued or agreed to under this subchapter and the payment of principal, interest, and any other amounts required or permitted in connection with the obligations, the governing body of the municipality or county may pledge all or part of the income from improvements financed under this subchapter, including income received in installment payments under Section 372.023.

(c) Pledged income must be fixed and collected in amounts sufficient, with other pledged resources, to pay principal, interest, and other expenses related to the obligations, and to the extent required by the ordinance, order, or agreement authorizing the obligations, to pay for the operation, maintenance, and other expenses related to improvements authorized by this subchapter.

(d) The obligations may also be secured by mortgages or deeds of trust on any real property related to the facilities authorized under this subchapter that are owned or are to be acquired by the municipality or county and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance as evidence of the indebtedness.

(e) The governing body may pledge to the payment of obligations all or part of a grant, donation, revenue, or income received or to be received from the government of the United States or any other public or private source, whether or not it is received pursuant to an agreement or otherwise.

(f) The governing body may enter into an agreement with a corporation created by the municipality or county under the Texas Constitution or other law that provides for payment of amounts pledged under this section to the corporation to secure indebtedness issued by the corporation to finance an improvement project, including indebtedness to pay capitalized interest and a reserve fund permitted by this subchapter for revenue or general obligation bonds issued under this subchapter and indebtedness issued to pay the corporation's costs of issuance. In addition, the agreement may

provide that:

(1) the corporation is responsible for managing the district; or

(2) title to one or more improvements will be held by the corporation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 23, eff. June 16, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 320 (H.B. 621), Sec. 5, eff. June 19, 2009.

Sec. 372.027. REFUNDING BONDS. (a) Revenue bonds issued under this subchapter may be refunded or refinanced by the issuance of refunding bonds, under terms or conditions set forth in ordinances or orders of the municipality or county issuing the bonds. The provisions of this subchapter applying generally to revenue bonds, including provisions related to the issuance of those bonds, apply to refunding bonds authorized by this section. The refunding bonds may be sold and delivered in amounts necessary for the principal, interest, and any redemption premium of the bonds to be refunded, on the date of the maturity of the bond or any redemption date of the bond.

(b) Refunding bonds may be issued for exchange with the bonds they are refunding. The comptroller of public accounts shall register refunding bonds described by this subsection and deliver the bonds to holders of bonds being refunded in accordance with the ordinance or order authorizing the issuance of refunding bonds. The exchange may be made in one delivery or several installment deliveries.

(c) General obligation bonds issued under this subchapter may be refunded in the manner provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 24, eff. June 16, 2001.

Sec. 372.028. APPROVAL AND REGISTRATION. (a) Revenue bonds issued under this subchapter and a record of the proceedings authorizing their issuance must be submitted to the attorney general

for examination. If bonds state that they are secured by a pledge of revenue or rentals from a contract or lease, a copy of the contract or lease and a description of the proceedings authorizing the contract or lease must also be submitted to the attorney general.

(b) If the attorney general determines that the bonds were authorized and the contracts or leases related to the bonds were made in accordance with the law, the attorney general shall approve the bonds and the contract or lease. On the approval of the attorney general, the comptroller of public accounts shall register the bonds.

(c) Bonds and contracts or leases approved and registered under this section are valid and binding obligations for all purposes in accordance with their terms and are incontestable in any court or other forum.

(d) General obligation bonds issued under this subchapter shall be approved and registered as provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 372.029. AUTHORIZED INVESTMENTS; SECURITY. (a) Bonds issued under this subchapter are legal and authorized investments for:

(1) banks, trust companies, and savings and loan associations;

(2) all insurance companies;

(3) fiduciaries, trustees, and guardians; and

(4) interest funds, sinking funds, and other public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic.

(b) Bonds issued under this subchapter may be security for deposits of public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic, to the extent of the market value of the bonds, if accompanied by any appurtenant unmatured interest coupons.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 372.030. SUBCHAPTER NOT EXCLUSIVE. This subchapter is an

alternative to other methods by which a municipality may finance public improvements by assessing property owners.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. IMPROVEMENT DISTRICTS IN HOME-RULE MUNICIPALITIES

Sec. 372.041. AUTHORITY OF HOME-RULE MUNICIPALITY. (a) A home-rule municipality may create improvement districts for the purposes of:

(1) levying, straightening, widening, enclosing, or otherwise improving a river, creek, bayou, stream, other body of water, street, or alley;

(2) draining, grading, filling, and otherwise protecting and improving the territory within the municipality's limits;

(3) issuing bonds to finance improvements listed in this subsection; and

(4) financing an improvement described in Subchapter A.

(b) If a home-rule municipality creates an improvement district in order to make improvements authorized by this subsection, the municipality must comply with the general law of the state relating to the creation of improvement districts. Bonds issued for improvements under this section must be issued in a manner that complies with the general authority of a home-rule municipality to issue bonds.

(c) A home-rule municipality may require the owners of property in the territory specially benefitted in enhanced value by improvements made under this section to pay the costs of the improvement. If a municipality finances an improvement under this subsection, the municipality shall make a personal charge against those property owners and fix a lien against that property by special assessment. The municipality may issue assignable or negotiable certificates to pay for the costs of improvements and require the property owners to make deferred payments to retire the certificates. Interest on deferred payments may not exceed eight percent. The municipality may appoint special commissioners or provide otherwise for the making and levying of special assessments under this subsection, or may provide that the making and levying of the assessment be performed by the governing body of the municipality, in compliance with requirements for hearings and other procedures as may

be adopted under or required by the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 970 (H.B. 1400), Sec. 5, eff. September 1, 2011.

SUBCHAPTER D. REIMBURSEMENT FOR PUBLIC IMPROVEMENTS IN CERTAIN COUNTIES

Sec. 372.151. APPLICABILITY. This subchapter applies only to a county that:

(1) does not wholly contain a municipality with a population of more than 50,000; and

(2) is adjacent to at least two counties, each with a population of more than 2.1 million.

Added by Acts 2009, 81st Leg., R.S., Ch. 645 (H.B. 1730), Sec. 1, eff. June 19, 2009.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 186, eff. September 1, 2023.

Sec. 372.152. ISSUANCE OF BONDS TO REIMBURSE ACQUIRED PUBLIC IMPROVEMENTS. (a) The governing body of a municipality or county may issue and sell general obligation bonds or revenue bonds to reimburse a developer for the cost of a public improvement if:

(1) the public improvement is located in a public improvement district created on or after January 1, 2005;

(2) the public improvement has been dedicated to and accepted by the municipality or county; and

(3) before the public improvement was dedicated to and accepted by the municipality or county, the governing body of the municipality or county entered into an agreement with the developer to pay for the public improvement.

(b) General obligation bonds or revenue bonds issued under this subchapter must comply with the provisions relating to general obligation bonds or revenue bonds issued under Subchapter A.

Added by Acts 2009, 81st Leg., R.S., Ch. 645 (H.B. 1730), Sec. 1, eff.

June 19, 2009.

CHAPTER 373. COMMUNITY DEVELOPMENT IN MUNICIPALITIES

Sec. 373.001. SHORT TITLE. This chapter may be cited as the Texas Community Development Act of 1975.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 373.002. LEGISLATIVE FINDING; PUBLIC PURPOSES. (a) The legislature finds that the activities specified in this chapter contribute to the development of viable urban communities by providing decent housing and a suitable living environment and by expanding economic opportunities for persons of low and moderate income.

(b) Activities conducted under this chapter are directed toward the following purposes:

(1) elimination of slums and areas affected by blight;

(2) prevention of blighting influences and of the deterioration of property and neighborhood and community facilities important to the welfare of the community;

(3) elimination of conditions detrimental to the public health, safety, and welfare;

(4) expansion and improvement of the quantity and quality of community services essential for the development of viable urban communities;

(5) more rational use of land and other natural resources;

(6) improved arrangement of residential, commercial, industrial, recreational, and other necessary activity centers;

(7) restoration and preservation of properties of special value for historic, architectural, or aesthetic reasons;

(8) reduction of the isolation of income groups in communities and geographical areas, promotion of increased diversity and vitality of neighborhoods through spatial deconcentration of housing opportunities for persons of low and moderate income, and revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and

(9) alleviation of physical and economic distress through the stimulation of private investment and community revitalization in

slum or blighted areas.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 373.003. DEFINITION. In this chapter, "community development program" means a program adopted under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 373.004. GOALS OF PROGRAM. Through a community development program, a municipality may conduct work or activities designed to:

(1) improve the living and economic conditions of persons of low and moderate income;

(2) benefit low or moderate income neighborhoods;

(3) aid in the prevention or elimination of slums and blighted areas;

(4) aid a federally assisted new community; or

(5) meet other urgent community development needs, including an activity or function specified for a community development program that incorporates a federally assisted new community.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 373.005. ELEMENTS OF PROGRAM. (a) To conduct work or activities under Section 373.004, a municipality may adopt a community development program by ordinance or resolution.

(b) A community development program may include:

(1) acquisition of real property, including air rights, water rights, and other interests in real property, that:

(A) is blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

(B) is appropriate for rehabilitation or conservation activities;

(C) is appropriate for the preservation or restoration of historic sites, the beautification of urban land, or the

conservation of open spaces, natural resources, and scenic areas;

(D) is appropriate for the provision of recreational opportunities or the guidance of urban development; or

(E) is to be used for the provision of public works, facilities, or other improvements eligible for assistance under this chapter or is to be used for other public purposes;

(2) acquisition, construction, reconstruction, or installation of public works, facilities, sites, or other improvements, including construction, reconstruction, or installation that implements design features or makes improvements that promote energy or water use efficiency;

(3) municipal code enforcement in a deteriorated or deteriorating area in which enforcement, combined with public improvements and public services, may stop the decline of the area;

(4) clearance, demolition, removal, and rehabilitation of buildings and improvements, including rehabilitation that promotes energy or water use efficiency, including assistance in and financing of public or private acquisition of those properties for rehabilitation, and including the renovation of closed school buildings;

(5) rehabilitation of privately owned properties;

(6) special projects related to the removal of barriers that restrict the mobility of elderly and handicapped persons;

(7) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units used for the relocation of persons displaced by programs conducted under this chapter;

(8) disposition, by sale, lease, donation, or otherwise, of real property acquired under this chapter, or the retention of the property for public purposes;

(9) provision of public services not otherwise available if the services are designed to improve the community's public services and facilities, including services related to employment opportunities, economic development, crime prevention, child care, health, drug abuse, education, welfare, or recreational needs of persons residing in those areas, or are designed to coordinate public and private development programs;

(10) payment of the nonfederal share required in connection with a federal grant-in-aid program undertaken as part of a local community development program;

(11) payment of the cost of completing a project funded under Title I of the Housing Act of 1949 (42 U.S.C.A. Section 1450 et seq.) or a federally assisted new community assisted by loan guarantees under Title X of the National Housing Act (12 U.S.C.A. Section 1749aa et seq.) if a portion of the federally assisted area has received grants under Section 107(A)(1) of the Housing and Community Development Act of 1974 (42 U.S.C.A. Section 5307(a)(1));

(12) relocation payments and assistance for individuals, families, businesses, organizations, and farm operations if determined by the municipality to be appropriate;

(13) activities necessary to develop a comprehensive community development plan and to develop a policy-planning-management capacity in order that recipients of assistance under this chapter may more rationally and effectively determine their needs, set long-term goals and short-term objectives, devise programs and activities to meet those goals and objectives, evaluate the progress of the programs, and carry out management, coordination, and monitoring of activities necessary for effective implementation of the programs;

(14) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of those activities and including the carrying out of activities described by Section 701(e) of the Housing Act of 1954 on the day before the date of the enactment of the federal Housing and Community Development Amendments of 1981;

(15) activities that are conducted by public or private entities if the activities are necessary or appropriate to meet the needs and objectives of the community development plan, including:

(A) acquisition of real property;

(B) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities, site improvements, utilities, commercial or industrial buildings or other structures, or other commercial or industrial real property improvements; and

(C) planning;

(16) grants to:

(A) neighborhood-based nonprofit organizations, local development corporations, or other entities organized to implement neighborhood revitalization projects, community economic development projects, or energy or water conservation projects;

(B) federally assisted new communities; or

(C) neighborhood-based nonprofit organizations or other private or public nonprofit organizations for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities in which elderly families benefit as a result of living in a dwelling in which facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and as a result reduces their cost of housing;

(17) provision of assistance to private, for-profit entities if the assistance is necessary or appropriate to carry out an economic development project; and

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937.

(c) A municipality may implement programs to provide financing for the acquisition, construction, improvement, or rehabilitation of privately owned buildings and other improvements or to assist private, for-profit entities if the assistance is necessary or appropriate to carry out an economic development project, through the use of loans and grants from federal money remitted to the municipality at the interest rates and on the terms and conditions determined by the municipality. A municipality may not provide municipal property or municipal funds for private purposes. The programs and financing must be in keeping with an approved community development plan that the municipality has determined to be a public purpose. A program established for financing the acquisition, construction, improvement, or rehabilitation of buildings and improvements, or for financing economic development projects, through the use of federal funds may prescribe procedures under which the owners of the buildings, improvements, or economic development projects agree to partially or fully reimburse the municipality.

(d) A municipality may issue notes or other obligations guaranteed by the secretary of housing and urban development under Section 108, Housing and Community Development Act of 1974 (42 U.S.C. Section 5308), as amended, for the purpose of providing financing for those activities described in Section 108, Housing and Community

Development Act (42 U.S.C. Section 5308), as amended, in furtherance of an approved community development program. The Section 108 guaranteed notes additionally may be secured by and made payable from the same sources as obligations issued under Subchapter C, Chapter 271, Local Government Code, subject to the notice provisions set forth therein. The Section 108 guaranteed notes or other obligations may be issued in such form, denominations, manner, terms, and conditions, bear interest at such rates, be interim or permanent notes or obligations, be subject to transfer, exchange, change, conversion, or replacement, and be sold in such manner, at such price, and under such terms, all as provided in the ordinance or resolution authorizing the issuance of such Section 108 guaranteed notes or obligations.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 77(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 980, Sec. 51, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 330, Sec. 1, eff. Sept. 1, 2001.

Sec. 373.006. REQUIRED PROCEDURES BEFORE ADOPTION OF COMMUNITY DEVELOPMENT PROGRAM. Before exercising powers under Section 373.005, the governing body of the municipality must:

(1) identify areas of the municipality in which predominantly low and moderate income persons reside, that are blighted or slum areas, or that are federally assisted new communities;

(2) establish community development program areas in which community development activities, building rehabilitation, or the acquisition of privately owned buildings or land is proposed;

(3) adopt, by resolution or ordinance, a plan under which citizens may publicly comment on the proposed community development program;

(4) conduct public hearings on the proposed program before the 15th day before the date of its final adoption by the governing body; and

(5) adopt the community development program by resolution or ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 373.007. LIMITATION ON MUNICIPAL POWERS; EFFECT ON URBAN RENEWAL. (a) This chapter does not grant a municipality the power of condemnation to rehabilitate or remove buildings or to acquire real property for the purpose of resale.

(b) This chapter does not authorize a municipality to implement an urban renewal project under Chapter 374 without compliance with the provisions of that chapter. This chapter does not affect the status, operations, contracts, or other obligations of any urban renewal agency created under Chapter 374. This chapter does not prevent a municipality from exercising urban renewal authority under Chapter 374.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 373A. HOMESTEAD PRESERVATION DISTRICTS AND REINVESTMENT ZONES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 373A.001. PURPOSE. The purpose of this chapter is to:

(1) promote the ability of municipalities to increase home ownership, provide affordable housing, and prevent the involuntary loss of homesteads by existing low-income and moderate-income homeowners living in disadvantaged neighborhoods;

(2) protect a municipality's interest in improving economic and social conditions within disadvantaged communities by enhancing the viability of home ownership among low-income and moderate-income residents in areas experiencing economic pressures; and

(3) provide municipalities with a means to expand and protect the homestead interests of low-income and moderate-income families.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.002. DEFINITIONS. In this chapter:

(1) "Affordable housing" means housing that is located in a district and is affordable to households earning 70 percent or less of the area median family income, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development.

(1-a) "Central business district" means a compact and contiguous geographical area of a municipality in which at least 90 percent of the land is used or zoned for commercial purposes and that has historically been the primary location in the municipality where business has been transacted.

(2) "Community housing development organization" has the meaning assigned by 42 U.S.C. Section 12704.

(2-a) "County" means the county containing all or the greatest portion of a homestead preservation reinvestment zone. For purposes of applying other law to a district or program created under this chapter, including Chapter 311, Tax Code, a reference in the other law to a "county" has the meaning assigned by this subdivision.

(3) "District" means a homestead preservation district designated under Subchapter B.

(3-a) "Project costs" has the meaning assigned by Section 311.002(1), Tax Code.

(4) "Taxing unit" has the meaning assigned by Section 1.04, Tax Code.

(5) "Trust" means a homestead land trust created or designated under Subchapter C.

(6) "Zone" means a homestead preservation reinvestment zone created under Subchapter D.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 1, eff. September 1, 2007.

Sec. 373A.003. APPLICABILITY OF CHAPTER. (a) This chapter applies to a municipality with a population of more than 950,000 that is located in a uniform state service region with fewer than 940,000 occupied housing units as determined by the most recent United States decennial census.

(b) Subchapters A, B, C, and D apply to any municipality with a population of 1.18 million or more which is located predominantly in a county that has a total area of less than 1,000 square miles and has adopted an urban land bank demonstration program under Chapter 379C, Local Government Code.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 3, eff. September 1, 2007.
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 96, eff. September 1, 2011.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 187, eff. September 1, 2023.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 373A.051. MUNICIPAL POWER TO DESIGNATE DISTRICT. (a) To promote and expand the ownership and rental of affordable housing and to prevent the involuntary loss of homesteads by existing homeowners and renters living in the area, the governing body of a municipality by ordinance may designate as a homestead preservation district an area in the municipality that is eligible under Section 373A.052.

(b) The ordinance must describe the boundaries of the district and designate the powers that apply to the district under this chapter.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 1, eff. September 1, 2013.

Sec. 373A.052. ELIGIBILITY FOR DESIGNATION. (a) To be designated as a district within a municipality described by Section 373A.003(a) under this subchapter, an area must be composed of census tracts forming a spatially compact area with:

(1) fewer than 75,000 residents;

(2) an overall poverty rate that is at least two times the poverty rate for the entire municipality; and

(3) in each census tract within the area, a median family income that is less than 80 percent of the median family income for the entire municipality.

(b) To be designated as a district within a municipality

described by Section 373A.003(b) under this subchapter, an area must be composed of census tracts forming a spatially compact area contiguous to a central business district and with:

(1) fewer than 75,000 residents;

(2) a median family income that is less than $30,000 according to the last decennial census; and

(3) an overall poverty rate that is at least two times the poverty rate for the entire municipality.

(c) An area that is designated as a district under this subchapter may retain its designation as a district regardless of whether the area continues to meet the eligibility criteria provided by this section, except that an area that does not elect to retain its designation as permitted by this subsection must meet all eligibility criteria to be considered for subsequent redesignation as a district.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.008, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 2, eff. September 1, 2013.

Sec. 373A.0521. DISSOLUTION. (a) The governing body of a municipality in which a district is located may adopt an ordinance dissolving the district.

(b) On the adoption of the ordinance, the district is dissolved and the municipality succeeds to the property and assets of the district and assumes all bonds, debts, obligations, and liabilities of the district.

(c) This section does not prohibit the municipality from continuing to operate programs established by the municipality, including programs established under Subchapter C, D, or E, in the area previously included in the district that are owned and operated

by the municipality on the date the district is dissolved.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 4, eff. September 1, 2007.

Sec. 373A.053. INVENTORY OF PROPERTIES. (a) The municipality and any county containing all or the greatest portion of the district shall each prepare on an annual basis an inventory of all land owned by the municipality or county, as appropriate, in the district and the current and projected uses of the land.

(b) The municipality and the county shall prepare on an annual basis a list of parcels of land for which delinquent taxes have been owed for a period of two or more years.

(c) The municipality and the county shall make the inventories prepared under Subsection (a) available to the public on request.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.054. ADDITIONAL METHODS OF INCREASING THE SUPPLY OF AFFORDABLE HOUSING. A municipality that designates a district under Section 373A.051 may provide tax-exempt bond financing, offer density bonuses, or provide other incentives to increase the supply of affordable housing and maintain the affordability of existing housing for low-income and moderate-income families.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

SUBCHAPTER C. HOMESTEAD LAND TRUST

Sec. 373A.101. CREATION. The governing body of a political subdivision by ordinance or order may create or designate under this subchapter one or more homestead land trusts, including a housing finance corporation established under Chapter 394 or a land trust operated by a community housing development organization certified by the municipality, to operate in an area that includes a district designated under Subchapter B.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 5, eff. September 1, 2007.

Sec. 373A.102. NATURE OF NONPUBLIC TRUST. A trust that is not created by the governing body of a political subdivision must be a nonprofit organization that is:

(1) created to acquire and hold land for the benefit of developing and preserving long-term affordable housing in the district; and

(2) exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being certified as an exempt organization under Section 501(c)(3), Internal Revenue Code of 1986.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 6, eff. September 1, 2007.

Sec. 373A.103. PURPOSE OF TRUST. The purpose of a trust is to:

(1) control local land use and reduce absentee ownership;

(2) provide affordable housing for low-income and moderate-income residents in the community;

(3) promote resident ownership and control of housing;

(4) keep housing affordable for future residents; and

(5) capture the value of public investment for long-term community benefit.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.104. BOARD OF DIRECTORS. (a) A trust shall be governed by a board of directors.

(b) If a trust holds land that provides at least 100 housing

units, at least one-third of the board members must reside in housing units located on land held by the trust.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 7, eff. September 1, 2007.

Sec. 373A.105. TITLE TO LAND. (a) A trust may retain title to land it acquires and may lease housing units located on the land or sell housing units located on the land under long-term ground leases, as provided by Section 373A.106.

(b) A trust may not transfer title to any land owned by the trust without obtaining:

(1) a unanimous vote of the board members of the trust;

(2) approval by the municipality and county in which the land is located, as provided through a resolution of the governing bodies of the municipality and county adopted with the affirmative vote of four-fifths of the members following a public hearing; and

(3) the provision by the board of the trust of advance notice to all persons who own or rent housing units located on land owned by the trust.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.106. SALE OR LEASE OF HOUSING UNITS. (a) A trust shall sell or lease all housing units only to families with a yearly income at the time of purchase or lease of the housing unit at or below 70 percent of the area median family income, adjusted for family size.

(b) At least 40 percent of the housing units sold or leased by the trust must be sold or leased to families with a yearly income at the time of purchase or lease at or below 50 percent of the area median family income, adjusted for family size.

(c) At least 10 percent of the housing units sold or leased by the trust must be sold or leased to families with a yearly income at the time of purchase or lease at or below 30 percent of the area

median family income, adjusted for family size.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.107. TRANSFER FROM GOVERNMENTAL ENTITIES; FORGIVING OUTSTANDING TAXES. (a) A governmental entity may transfer land to a trust without competitive bidding.

(b) A taxing unit may forgive outstanding taxes and fees on property transferred under this section if otherwise allowed by law.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.109. RELATION TO OTHER LAW. This subchapter does not preclude the creation of a land trust by a nonprofit organization, including a community housing development organization, under other statutory or common law or the operation of that land trust inside or outside the district.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.110. APPLICABILITY OF SUBCHAPTER TO TRUST OPERATED BY HOUSING FINANCE CORPORATION. Sections 373A.102, 373A.104, 373A.105(b), and 373A.106 do not apply to a trust operated in the district by a housing finance corporation established under Chapter 394.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 8, eff. September 1, 2007.

SUBCHAPTER D. HOMESTEAD PRESERVATION REINVESTMENT ZONE

Sec. 373A.151. APPLICABILITY OF OTHER LAW. (a) Except as provided by this subchapter, Chapter 311, Tax Code, applies to a homestead preservation reinvestment zone created under this subchapter. To the extent of any conflict between this subchapter

and Chapter 311, Tax Code, this subchapter prevails.

(b) In addition to other provisions of this subchapter that modify or supersede the application of Chapter 311, Tax Code, to a zone established under this subchapter, Sections 311.005 and 311.006, Tax Code, do not apply to a zone established under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 9, eff. September 1, 2007.

Sec. 373A.152. GENERAL AUTHORITY TO CREATE HOMESTEAD PRESERVATION REINVESTMENT ZONE. (a) A municipality by ordinance may designate a contiguous geographical area contained entirely within the boundaries of the district as a homestead preservation reinvestment zone to develop or redevelop affordable housing if the municipality determines the zone is necessary to accomplish the purposes of this chapter.

(b) A county may participate in a homestead preservation reinvestment zone established by a municipality under Subsection (a) by adopting a final order:

(1) agreeing to the creation of the zone, the zone boundaries, and the zone termination date specified by the municipality under Section 373A.1521(1); and

(2) specifying an amount of tax increment to be deposited by the county into the tax increment fund that is equal to the amount of the tax increment specified by the municipality under Section 373A.1521(3).

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(1), eff. September 1, 2007.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(1), eff. September 1, 2007.

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(1), eff. September 1, 2007.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(1), eff. September 1, 2007.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 10, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 17(1), eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 3, eff. September 1, 2013.

Sec. 373A.1521. CONTENTS OF REINVESTMENT ZONE ORDINANCE. The ordinance designating the homestead preservation zone must:

(1) contain the information required under Sections 311.004(a)(1), (4), and (6), Tax Code;

(2) assign a name to the zone for identification, with the first zone designated as "(Name of municipality) Homestead Preservation Reinvestment Zone Number One," and subsequently created zones assigned names in the same form numbered consecutively in the order of their designation;

(3) specify the amount of tax increment to be deposited by the municipality into the tax increment fund; and

(4) contain findings that the area is unproductive, underdeveloped, or blighted as provided by Section 1-g(b), Article VIII, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 11, eff. September 1, 2007.

Sec. 373A.1522. EFFECTIVE DATE OF ZONE. The zone designated by the ordinance adopted under Section 373A.1521 takes effect on the date designated by the municipality in the ordinance adopted under Section 373A.1521.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 11, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 4, eff. September 1, 2013.

Sec. 373A.1541. TAX INCREMENT FINANCING AND ABATEMENT.

Designation of an area as a homestead preservation reinvestment zone is also designation of the area as a reinvestment zone for tax increment financing under Chapter 311, Tax Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 12, eff. September 1, 2007.

Sec. 373A.155. COLLECTION AND DEPOSIT OF TAX INCREMENTS. (a) The municipality designating the zone and the county shall provide for the collection of its taxes on real property located in the zone as for any other property taxed by the municipality and the county.

(a-1) The municipality shall pay into the tax increment fund an amount specified in the ordinance designating the zone.

(b) If a county elects to participate in a homestead preservation reinvestment zone, the county shall pay into the tax increment fund for the zone an amount equal to the tax increment paid by the municipality as specified in the order adopted under Section 373A.152.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 13, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 5, eff. September 1, 2013.

Sec. 373A.157. ADMINISTRATION AND USE OF TAX INCREMENT FUND. (a) The tax increment fund is administered by the governing body of the municipality in accordance with the project and reinvestment zone financing plans. Revenue from the tax increment fund must be dedicated as provided by this section to the development, construction, and preservation of affordable housing in the zone by a political subdivision, a community housing development organization certified by the municipality, a trust created or designated by a political subdivision, or another entity as provided by this section.

(b) All revenue from the tax increment fund must be expended to benefit families that have a yearly income at or below 70 percent of the area median family income, adjusted for family size.

(c) At least 50 percent of the revenue from the tax increment fund expended annually must benefit families that have a yearly income at or below 50 percent of the area median family income, adjusted for family size.

(d) At least 25 percent of the revenue from the tax increment fund expended annually must benefit families that have a yearly income at or below 30 percent of the area median family income, adjusted for family size.

(e) The municipality must spend at least 80 percent of the revenue expended annually from the tax increment fund for project costs, including the purchase of real property, the construction or rehabilitation of affordable housing in the zone, and infrastructure improvements directly related to supporting the construction or rehabilitation of affordable housing in the zone. The municipality may spend not more than 10 percent of the revenue expended annually from the tax increment fund for administration of the zone.

(f) The municipality may provide not more than 10 percent of the revenue expended annually from the tax increment fund to designated land banks and community housing development organizations for the administration of housing-related activities in the zone.

(g) All housing created or rehabilitated with revenue from the tax increment fund must have at least a 30-year affordability period.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 14, eff. September 1, 2007.

Sec. 373A.158. ANNUAL REPORT. (a) If a county elects to participate in a homestead preservation reinvestment zone, the county is the only taxing unit entitled to receive the annual report prepared under Section 311.016(a), Tax Code.

(b) The report must include:

(1) the amount and source of revenue in the tax increment fund established for the zone;

(2) the amount and purpose of expenditures from the fund and the income levels of the persons who benefited from the expenditures;

(3) the number of parcels of property purchased, housing units rehabilitated, and housing units constructed and the income levels of the persons residing in the housing units;

(4) the tax increment base and current captured appraised value retained by the zone;

(5) the total amount of tax increments received; and

(6) any additional information necessary to demonstrate good faith compliance with the provisions of this subchapter.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1175, Sec. 17(2), eff. September 1, 2007.

(d) The municipality shall make the report available to the public on the municipality's official website.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 15, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 17(2), eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 711 (H.B. 3350), Sec. 6, eff. September 1, 2013.

SUBCHAPTER E. HOMESTEAD LAND BANK PROGRAM

Sec. 373A.201. SHORT TITLE. This subchapter may be cited as the Homestead Land Bank Program Act.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.202. APPLICABILITY. This subchapter applies only to a municipality that has designated a district under Section 373A.051.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.203. DEFINITIONS. In this subchapter:

(1) "Affordable" means that the monthly mortgage payment or

contract rent does not exceed 30 percent of the applicable median family income for that unit size, in accordance with the income and rent limit rules adopted by the Texas Department of Housing and Community Affairs.

(2) "Community housing development organization" or "organization" means an organization that:

(A) meets the definition of a community housing development organization in 24 C.F.R. Section 92.2;

(B) is certified by the municipality as a community housing development organization;

(C) is governed exclusively by a board of at least five members unrelated by blood, marriage, or business interest; and

(D) is not controlled, directly or indirectly, by any other party through any contract, arrangement, understanding, relationship, voting power, affiliation, trust, proxy, power of attorney, pooling arrangement, security, warrant, partnership, option, discretionary account, joint venture, interlocking directors, or other device, as evidenced by a notarized affidavit signed by each board member.

(3) "Homestead land bank plan" or "plan" means a plan adopted by the governing body of a municipality as provided by Section 373A.206.

(4) "Homestead land bank program" or "program" means a program adopted under Section 373A.204.

(5) "Land bank" means an entity established or approved by the governing body of a municipality for the purpose of acquiring, holding, and transferring unimproved real property under this subchapter.

(6) "Low income household" means a household with a gross income of not greater than 80 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(7) "Qualified participating developer" means a developer who meets the requirements of Section 373A.205 and includes a qualified organization under Section 373A.211.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.204. HOMESTEAD LAND BANK PROGRAM. (a) The governing body of a municipality may adopt a homestead land bank program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development as provided by this subchapter.

(b) The governing body of a municipality that adopts a homestead land bank program shall establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.205. QUALIFIED PARTICIPATING DEVELOPER. To qualify to participate in a homestead land bank program, a developer must:

(1) have developed three or more housing units within the 10-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank;

(2) have a development plan approved by the municipality for the land bank property; and

(3) meet any other requirements adopted by the municipality in the homestead land bank plan.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.206. HOMESTEAD LAND BANK PLAN. (a) A municipality that adopts a homestead land bank program shall operate the program in conformance with a homestead land bank plan.

(b) The governing body of a municipality that adopts a homestead land bank program shall adopt a plan annually. The plan may be amended from time to time.

(c) In developing the plan, the municipality shall consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) The plan must include the following:

(1) a list of community housing development organizations eligible to participate in the right of first refusal provided by Section 373A.211;

(2) a list of the parcels of real property that may become eligible for sale to the land bank during the upcoming year;

(3) the municipality's plan for affordable housing development on those parcels of real property; and

(4) the sources and amounts of funding anticipated to be available from the municipality for subsidies for development of affordable housing in the municipality, including any money specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.207. PUBLIC HEARING ON PROPOSED PLAN. (a) Before adopting a plan, a municipality shall hold a public hearing on the proposed plan.

(b) The city manager or the city manager's designee shall provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this subchapter are located.

(c) The city manager or the city manager's designee shall make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.208. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as appraised by the local appraisal district and as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a building or buildings;

(3) there are delinquent taxes on the property for a total of at least five years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

(b) A sale of property for use in connection with the program is a sale for a public purpose.

(c) If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50, Tax Code.

(d) For any sale of property under this subchapter, each person who was a defendant to the judgment, or that person's attorney, shall be given, not later than the 60th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Notice shall be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) After receipt of the notice required by Subsection (d) and before the date of the proposed sale, the owner of the property subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by this subchapter.

(f) If the officer charged with the sale receives a written request as provided by Subsection (e), the officer shall sell the property as otherwise provided in Section 34.01, Tax Code.

(g) The owner of the property subject to sale may not receive any proceeds of a sale under this subchapter. However, the owner does not have any personal liability for a deficiency of the judgment as a result of a sale under this subchapter.

(h) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may be sold to the land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(i) The deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

(j) Property sold to and held by the land bank for subsequent resale is eligible for an exemption from ad valorem taxation for a period not to exceed three years from the date of acquisition. Property is eligible for an exemption under this subsection only during the period the property is held by the land bank.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.209. SUBSEQUENT RESALE BY LAND BANK. (a) Each subsequent resale of property acquired by a land bank under this subchapter must comply with the conditions of this section.

(b) The land bank must sell a property to a qualified participating developer within the three-year period following the date of acquisition for the purpose of construction of affordable housing for sale or rent to low income households. If after three years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(c) Unless the municipality increases the amount in its plan, the number of properties acquired by a qualified participating developer under this section on which development has not been completed may not at any given time exceed three times the annual average residential production completed by the qualified participating developer during the preceding two-year period as determined by the municipality.

(d) The deed conveying a property sold by the land bank must

include a right of reverter so that if the qualified participating developer does not apply for a construction permit and close on any construction financing within the two-year period following the later of the date of the conveyance of the property from the land bank to the qualified participating developer or the expiration of the period specified by the municipality under Section 373A.211(d), the property will revert to the land bank for subsequent resale to another qualified participating developer or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.210. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) The land bank shall impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low income households.

(b) At least 25 percent of the land bank properties sold during any given fiscal year to be developed for sale shall be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(c) If property is developed for rental housing, the deed restrictions must be for a period of not less than 20 years and must require that:

(1) 100 percent of the rental units be occupied by and affordable to households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development;

(2) 40 percent of the units be occupied by and affordable to households with incomes not greater than 50 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States

Department of Housing and Urban Development; or

(3) 20 percent of the units be occupied by and affordable to households with incomes not greater than 30 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(d) The deed restrictions under Subsection (c) must require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. The deed restrictions must also prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

(e) Except as otherwise provided by this section, if the deed restrictions imposed under this section are for a term of years, the deed restrictions shall renew automatically.

(f) The land bank or the governing body of the municipality may modify or add to the deed restrictions imposed under this section. Any modifications or additions made by the governing body of the municipality must be adopted by the municipality as part of its plan and must comply with the restrictions set forth in Subsections (b), (c), and (d).

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.211. RIGHT OF FIRST REFUSAL. (a) In this section, "qualified organization" means a community housing development organization that:

(1) contains within its designated geographical boundaries of operation, as set forth in its application for certification filed with and approved by the municipality, a portion of the property that the land bank is offering for sale;

(2) has developed or rehabilitated at least three single-family homes or duplexes or one multifamily residential dwelling of four or more units in compliance with all applicable building codes within the preceding 10-year period and within the organization's

designated geographical boundaries of operation; and

(3) within the preceding three-year period has developed or rehabilitated housing units within a two-mile radius of the property that the land bank is offering for sale.

(b) The land bank shall first offer a property for sale to qualified organizations.

(c) Notice must be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which a right of first refusal may be exercised.

(d) The municipality shall specify in its plan the period during which the right of first refusal provided by this section may be exercised by a qualified organization. That period must be at least 90 days in duration and begin at least three months but not more than 26 months following the date of the deed of conveyance of the property to the land bank.

(e) If the land bank conveys the property to a qualified organization before the expiration of the period specified by the municipality under Subsection (d), the interlocal agreement executed under Section 373A.208(a)(4) may provide tax abatement for the property until the expiration of that period.

(f) During the specified period, the land bank may not sell the property to a qualified participating developer other than a qualified organization. If all qualified organizations notify the land bank that they are declining to exercise their right of first refusal during the specified period, or if an offer to purchase the property is not received from a qualified organization during that period, the land bank may sell the property to any other qualified participating developer at the same price that the land bank offered the property to the qualified organizations.

(g) In its plan, the municipality shall establish the amount of additional time, if any, that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(h) If more than one qualified organization expresses an interest in exercising its right of first refusal, the organization that has designated the most geographically compact area encompassing a portion of the property shall be given priority.

(i) In its plan, the municipality may provide for other rights of first refusal for any other nonprofit corporation exempted from

federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, provided that the preeminent right of first refusal is provided to qualified organizations as provided by this section.

(j) The land bank is not required to provide a right of first refusal to qualified organizations under this section if the land bank is selling property that reverted to the land bank under Section 373A.209(d).

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.212. OPEN RECORDS AND MEETINGS. The land bank shall comply with the requirements of Chapters 551 and 552, Government Code.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

Sec. 373A.213. RECORDS; AUDIT; REPORT. (a) The land bank shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The financial transactions of the land bank are subject to audit by the municipality.

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this subchapter. The performance report must include:

(1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the preceding fiscal year;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the developer;

(D) the purchase price paid by the developer;

(E) the maximum incomes allowed for the households by the terms of the sale; and

(F) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection a complete copy of the sale settlement statement for each property sold by a qualified participating developer and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk.

(e) The land bank shall provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and shall provide notice of the availability of the performance report for review to the organizations and neighborhood associations identified by the municipality as serving the neighborhoods in which properties sold to the land bank under this subchapter are located.

(f) The land bank and the municipality shall maintain copies of

the performance report available for public review.

Added by Acts 2005, 79th Leg., Ch. 495 (H.B. 525), Sec. 1, eff. September 1, 2005.

CHAPTER 373B. COMMUNITY LAND TRUSTS

Sec. 373B.001. DEFINITION. In this chapter, "community housing development organization" has the meaning assigned by 42 U.S.C. Section 12704.

Added by Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 1, eff. January 1, 2012.

Sec. 373B.002. CREATION OR DESIGNATION. The governing body of a municipality or county by ordinance or order may create or designate one or more community land trusts, including a housing finance corporation established under Chapter 394 or a land trust operated by a community housing development organization certified by the municipality or county, to operate in the municipality or county.

Added by Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 1, eff. January 1, 2012.

Sec. 373B.003. NATURE OF TRUST. A community land trust created or designated under Section 373B.002 must be a nonprofit organization that is:

(1) created to acquire and hold land for the benefit of developing and preserving long-term affordable housing in the municipality or county; and

(2) organized as:

(A) a nonprofit corporation that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code;

(B) a limited partnership of which a nonprofit corporation described by Paragraph (A) controls 100 percent of the general partner interest; or

(C) a limited liability company for which a nonprofit

corporation described by Paragraph (A) serves as the only member.

Added by Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 1, eff. January 1, 2012.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 1020 (S.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 373B.004. PURPOSES OF TRUST. The purposes of a community land trust are to:

(1) provide affordable housing for low-income and moderate-income residents in the community;

(2) promote resident ownership of housing;

(3) keep housing affordable for future residents; and

(4) capture the value of public investment for long-term community benefit.

Added by Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 1, eff. January 1, 2012.

Sec. 373B.005. OWNERSHIP OF LAND AND HOUSING UNITS. A community land trust may retain title to land it acquires and may:

(1) sell housing units located on the land and lease the land under ground leases with terms of at least 99 years; or

(2) lease housing units located on the land.

Added by Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 1, eff. January 1, 2012.

Sec. 373B.006. QUALIFICATIONS OF PURCHASERS OR LESSEES OF HOUSING UNITS. (a) A community land trust may sell housing units only to families with a yearly income at the time of sale at or below 80 percent of the area median family income, adjusted for family size.

(b) Notwithstanding Subsection (a), for housing units located on one or more tracts of land owned by the community land trust that constitute a contiguous geographic area or are located in the same platted subdivision, the trust may sell not more than 20 percent of

the housing units to families with a yearly income at the time of sale that exceeds the amount provided by Subsection (a) but does not exceed 120 percent of the area median family income, adjusted for family size.

(c) At least 25 percent of the housing units sold by the trust must be sold to families with a yearly income at the time of sale at or below 60 percent of the area median family income, adjusted for family size.

(d) A community land trust may lease housing units only to families with a yearly income at the time of lease at or below 60 percent of the area median family income, adjusted for family size.

(e) Notwithstanding Subsection (d), for housing units located on one or more tracts of land owned by the community land trust that constitute a contiguous geographic area or are located in the same platted subdivision, the trust may lease not more than 20 percent of the housing units to families with a yearly income at the time of lease that exceeds the amount provided by Subsection (d) but does not exceed 80 percent of the area median family income, adjusted for family size.

Added by Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 1, eff. January 1, 2012.

Sec. 373B.007. RELATION TO OTHER LAW. This chapter does not preclude the creation of a land trust by a nonprofit organization, including a community housing development organization, under other statutory or common law or the operation of that land trust inside or outside a municipality or county that has created or designated a community land trust under Section 373B.002.

Added by Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 1, eff. January 1, 2012.

Sec. 373B.008. APPLICABILITY OF CHAPTER TO TRUST OPERATED BY HOUSING FINANCE CORPORATION. Section 373B.003 does not apply to a community land trust operated in the municipality or county by a housing finance corporation established under Chapter 394.

Added by Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 1, eff.

January 1, 2012.

CHAPTER 374. URBAN RENEWAL IN MUNICIPALITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 374.001. SHORT TITLE. This chapter may be cited as the Texas Urban Renewal Law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.002. LEGISLATIVE FINDINGS; INTENT. (a) The legislature finds that slum and blighted areas exist in municipalities in this state and that those areas:

(1) are a serious and growing menace that is injurious and inimical to the public health, safety, morals, and welfare of the residents of this state;

(2) contribute substantially and increasingly to the spread of disease and crime, requiring excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, and for crime prevention, correctional facilities, prosecution and punishment, treatment of juvenile delinquency, and the maintenance of adequate police, fire, and accident protection and other public services and facilities; and

(3) constitute an economic and social liability, substantially impair the sound growth of affected municipalities, and retard the provision of housing accommodations.

(b) For these reasons, prevention and elimination of slum and blighted areas are matters of state policy and concern that may be best addressed by the combined action of private enterprise, municipal regulation, and other public action through approved urban renewal plans. The legislature further finds that the repair and rehabilitation of buildings and other improvements in affected areas, public acquisition of real property, demolition of buildings and other improvements as necessary to eliminate slum or blight conditions or to prevent the spread of those conditions, the disposition of property acquired in affected areas and incidental to the purposes stated by this subsection, and other public assistance to eliminate those conditions are public purposes for which public money may be spent and the power of eminent domain exercised.

(c) It is the intent of the legislature that private enterprise be encouraged to participate in accomplishing the objectives of urban renewal to the extent of its capacity and with governmental assistance as provided by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.003. DEFINITIONS. In this chapter:

(1) "Agency" means a public urban renewal agency created under this chapter.

(2) "Area of operation" means the area within the corporate boundaries of a municipality.

(3) "Blighted area" means an area that is not a slum area, but that, because of deteriorating buildings, structures, or other improvements; defective or inadequate streets, street layout, or accessibility; unsanitary conditions; or other hazardous conditions, adversely affects the public health, safety, morals, or welfare of the municipality and its residents, substantially retards the provision of a sound and healthful housing environment, or results in an economic or social liability to the municipality. The term includes an area certified as a disaster area as provided by Section 374.903.

(4) "Board" means a board, commission, department, division, office, body, or other municipal unit through which a municipality elects to perform urban renewal powers, duties, or other functions.

(5) "Bond" means any bond, including a refunding bond, note, interim certificate, certificate of indebtedness, debenture, or other obligation.

(6) "Captured market value" means the amount by which the current market value of property within the boundaries of an urban renewal project area exceeds its market value at the time the urban renewal project is designated under this chapter.

(7) "Conservation" means preserving and protecting an area from blight, and includes preventing an area susceptible to blight from becoming blighted.

(8) "Clerk" means the municipal clerk or other municipal officer who is the custodian of the official municipal records.

(9) "Comptroller" means the comptroller of public accounts.

(10) "Deterioration" means impairment of quality, character, value, or safety due to use, wear and tear, or other physical causes.

(11) "Federal government" means the United States, an agency of the United States, or a corporate or other instrumentality of the United States.

(12) "Mayor" means the mayor or other chief executive officer of a municipality.

(13) "Obligee" includes a bondholder, an agent or trustee for a bondholder, a lessor who demises property used in connection with an urban renewal project to the municipality, an assignee of any part of the lessor's interest, and the federal government as a party to a contract with the municipality.

(14) "Planning commission" means a municipal planning commission established under law or charter.

(15) "Public body" means the state, any political subdivision of the state, or a department, agency, or instrumentality of the state or of a political subdivision of the state.

(16) "Real property" includes land, improvements and fixtures on land, property of any nature that is appurtenant to or used in connection with land, and every legal or equitable estate, interest, right, or use in land, including terms for years and liens.

(17) "Rehabilitate" means to restore to a former state of solvency or efficiency or to a similar better state.

(18) "Rehabilitation" means the restoration of buildings or other structures to prevent deterioration of an area that is tending to become a blighted area or a slum area.

(19) "Slum area" means an area within a municipality that is detrimental to the public health, safety, morals, and welfare of the municipality because the area:

(A) has a predominance of buildings or other improvements that are dilapidated, deteriorated, or obsolete due to age or other reasons;

(B) is prone to high population densities and overcrowding due to inadequate provision for open space;

(C) is composed of open land that, because of its location within municipal limits, is necessary for sound community growth through replatting, planning, and development for predominantly residential uses; or

(D) has conditions that exist due to any of the causes

enumerated in Paragraphs (A)-(C) or any combination of those causes that:

(i) endanger life or property by fire or other causes; or

(ii) are conducive to:

(a) the ill health of the residents;

(b) disease transmission;

(c) abnormally high rates of infant mortality;

(d) abnormally high rates of juvenile delinquency and crime; or

(e) disorderly development because of inadequate or improper platting for adequate residential development of lots, streets, and public utilities.

(20) "Tax assessor-collector" means the tax assessor-collector of the municipality.

(21) "Tax increment" means the amount of property taxes levied and collected each year on real property in an urban renewal project area in excess of the amount levied and collected on that property during the year preceding the date of the adoption of the urban renewal plan.

(22) "Tax increment base" means the aggregate market value of all taxable real property in an urban renewal project area on the date of approval of the urban renewal plan.

(23) "Taxable real property" does not include personal property or intangible property.

(24) "Taxing entity" means a governmental unit that is authorized by law to levy taxes on property located in an urban renewal project area. The term includes the state and a political subdivision of the state, but does not include a municipality.

(25) "Urban renewal activities" includes slum clearance, redevelopment, rehabilitation, and conservation activities to prevent further deterioration of an area that is tending to become a blighted or slum area. The term includes:

(A) the acquisition of all or part of a slum area or blighted area or the acquisition of land that is predominantly open and that, because of obsolete platting, diversity of ownership, deterioration of structures or site improvements, or for other reasons, substantially impairs or arrests the sound growth of the community;

(B) the demolition and removal of buildings and

improvements;

(C) the installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary to fulfill urban renewal objectives in accordance with an urban renewal plan;

(D) the disposition by the municipality of property acquired in an urban renewal area for use in accordance with an urban renewal plan, including the sale or initial lease of the property at its fair value or the retention of the property;

(E) the implementation of plans for a program of voluntary repair and rehabilitation of buildings or improvements in accordance with an urban renewal plan; and

(F) the acquisition of real property in an urban renewal area as necessary to remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

(26) "Urban renewal area" means a slum area, blighted area, or a combination of those areas that the governing body of a municipality designates as appropriate for an urban renewal project.

(27) "Urban renewal plan" means a plan for an urban renewal project that:

(A) conforms to the general municipal plan except as provided by Section 374.903; and

(B) includes:

(i) any zoning and planning changes;

(ii) building requirements;

(iii) land uses;

(iv) maximum densities;

(v) land acquisition;

(vi) redevelopment;

(vii) rehabilitation;

(viii) demolition and removal of structures; and

(ix) a description of the plan's relationship to local objectives relating to public transportation, traffic conditions, public utilities, recreational and community facilities, and other improvements.

(28) "Urban renewal project" includes any of the following activities undertaken in accordance with an urban renewal plan:

(A) municipal activities in an urban renewal area that are designed to eliminate or to prevent the development or spread of slums and blighted areas;

(B) slum clearance and redevelopment in an urban renewal area;

(C) rehabilitation or conservation in an urban renewal area;

(D) development of open land that, because of location or situation, is necessary for sound community growth and that is to be developed, by replatting and planning, for predominantly residential uses; or

(E) any combination or part of the activities described by Paragraphs (A)-(D).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. MUNICIPAL POWERS AND DUTIES RELATING TO URBAN RENEWAL

Sec. 374.011. RESOLUTION; ELECTION. (a) Except as provided by Section 374.012, a municipality may not exercise a power granted under this chapter unless:

(1) the governing body of the municipality adopts a resolution that finds that a slum area or blighted area exists in the municipality and that the rehabilitation, the conservation, or the slum clearance and redevelopment of the area is necessary for the public health, safety, morals, or welfare of the residents of the municipality; and

(2) a majority of the municipality's voters voting in an election held as provided by Subsection (b) favor adoption of the resolution.

(b) Before adopting the resolution, the governing body must give notice of the proposed resolution and must hold an election on the question. The notice must be published at least twice in the newspaper officially designated by the governing body and must state that, on a date that is specified in the notice and that is after the 60th day after the date the notice is first published, the governing body will consider the question of holding an election to determine whether it should adopt the resolution. On the date specified in the notice to consider the question, the governing body may order an election on its own motion to consider the resolution. The governing body shall order an election on the question if it receives a petition during the notice period that is signed by at least five percent of the qualified voters of the municipality who own taxable

real property included on the tax rolls of the municipality. If the governing body determines that it is necessary to order an election, it shall give at least 30 days' notice of the election.

(c) If a majority of the voters voting in the election are against the resolution, the governing body may not adopt it and may not propose the resolution again for a one-year period.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.012. ALTERNATE APPROVAL PROCESS FOR CERTAIN PROJECTS. (a) A municipality that did not approve the exercise of urban renewal powers under Section 374.011 before April 27, 1973, may approve the exercise of those powers for a specific urban renewal project in the alternative manner provided by this section.

(b) The governing body of the municipality must order and hold an election in the manner provided by Section 374.011.

(c) The resolution ordering the election and the notice of the election must contain:

(1) a complete legal description of the area included in the proposed project;

(2) a statement of the nature of the proposed project; and

(3) a statement of the total amount of local funds to be spent on the proposed project.

(d) The ballot proposition at the election need not contain a complete legal description of the area included in the project, but the proposition must contain a general description of the area that is sufficient to give notice to the voters of the location of the proposed project. The proposition must also contain a statement of the nature of the proposed project and the total amount of local funds to be spent on the project.

(e) If the ballot proposition is approved, the municipality may not exceed the limitations imposed on the project in the resolution ordering the election with respect to the area, nature, or amount of local funds spent on the project. If the municipality desires to expand the project beyond those limitations, the proposed expansion must be approved at an election in the manner provided for the original project.

(f) Voter approval is not required for preliminary planning of an urban renewal project.

(g) This section does not require further elections, resolutions, or actions of a municipality that has exercised urban renewal powers under this chapter as of April 27, 1973.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.013. USE OF PUBLIC OR PRIVATE RESOURCES. (a) To further the urban renewal objectives of this chapter, a municipality may formulate a workable program to use appropriate private and public resources, including the resources specified by Subsection (b), to encourage urban rehabilitation, to provide for the redevelopment of slum and blighted areas, or to undertake those activities or other feasible municipal activities as may be suitably employed to achieve the objective of the program. The program must specifically include provisions relating to:

(1) prevention, through diligent enforcement of housing and occupancy controls and standards, of the expansion of blight into areas of the municipality that are free from blight; and

(2) rehabilitation or conservation of slum and blighted areas as far as practicable to areas that are free from blight through replanning, removing congestion, providing parks, playgrounds, and other public improvements, encouraging voluntary rehabilitation and requiring the repair and rehabilitation of deteriorated or deteriorating structures, and the clearance and redevelopment of slum areas.

(b) Each municipality, to the greatest extent determined to be feasible, shall afford the maximum opportunity, consistent with the needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise. A municipality shall consider this objective in exercising powers under this chapter, including:

(1) formulation of a workable program for urban renewal under Subsection (a);

(2) approval of urban renewal plans consistent with the general plan of the municipality;

(3) exercise of zoning power;

(4) enforcement of other laws, codes, and regulations relating to land use, use and occupancy of buildings and improvements, and the disposition of any property acquired; and

(5) provision of necessary public improvements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.014. MUNICIPAL URBAN RENEWAL PLAN. (a) A municipality may not prepare an urban renewal plan for an area unless the governing body of the municipality has, by resolution, declared the area to be a slum area, a blighted area, or both, and has designated the area as appropriate for an urban renewal project. The governing body may not approve an urban renewal plan until a general plan has been prepared for the municipality. A municipality may not acquire real property for an urban renewal project until the governing body has approved the urban renewal plan as provided by Subsection (d).

(b) Any person may submit an urban renewal plan to the municipality. The governing body, before approving the plan, must submit the proposed plan to the urban renewal agency and the planning commission, if any, for review and recommendations as to the plan's conformity with the general plan for municipal development. The urban renewal agency and the planning commission shall submit written recommendations relating to the proposed urban renewal plan to the governing body within 30 days after the date the plan is received for review. On receipt of those recommendations, the governing body shall hold a hearing relating to the proposed plan as provided by Subsection (c). If recommendations are not proposed within the 30-day period, the governing body may hold the hearing without recommendations.

(c) The governing body must hold a public hearing on the proposed urban renewal plan before it may approve the urban renewal plan. The governing body shall publish notice of the hearing three times in a newspaper of general circulation in the municipality. The first notice must be published before the 30th day before the date of the hearing. The notice must state the time, date, place, and purpose of the hearing, must generally identify the urban renewal area, and must describe the general scope of the urban renewal project under consideration.

(d) After the hearing, the governing body may approve an urban renewal plan if the governing body finds that:

(1) a feasible method exists for the relocation, in decent,

safe, affordable, and sanitary accommodations, of families or individuals who will be displaced from the urban renewal area, without undue hardship to those persons;

(2) the urban renewal plan conforms to the general plan for municipal development; and

(3) the urban renewal plan offers the maximum opportunity, consistent with the needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise.

(e) An urban renewal plan may be modified at any time. If modified after the lease or sale by the municipality of real property within the urban renewal project area, the modification is subject to the rights at law or in equity of the lessee or purchaser, or that person's successor in interest. If a proposed modification affects the street layout, land use, public utilities, zoning, if any, open space, or density of the area, the modification may not be made until it is submitted to the planning commission and a report is made to the governing body as provided by Subsection (b).

(f) After the municipality approves an urban renewal plan, the provisions of the plan that relate to the future use of the affected property and the building requirements applicable to the property control with respect to that property.

(g) If a building in a good state of repair is located in an urban renewal area and may be incorporated into an urban renewal project pattern or plan for that area, the building may not be acquired without the consent of the owner. If the owner of property in an urban renewal area agrees to use the property in a manner that is consistent with the purposes of the urban renewal plan and if improvements to the property do not constitute a fire or health hazard, that property is not subject to the exercise of eminent domain authority. A property owner may contest before the governing body any exercise of eminent domain authority that affects that person's individual ownership and may appeal to the district court. The review on appeal is by trial de novo.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.015. GENERAL MUNICIPAL POWERS RELATING TO URBAN RENEWAL. (a) A municipality may exercise all powers necessary or

convenient to carry out the purposes of this chapter, including the power to:

(1) conduct preliminary surveys to determine if undertaking an urban renewal project is feasible;

(2) conduct urban renewal projects within its area of operation;

(3) execute contracts and other instruments necessary or convenient to the exercise of its powers under this chapter;

(4) provide, arrange, or contract for the furnishing or repair by any person of services, privileges, works, streets, roads, public utilities, or other facilities in connection with an urban renewal project, including installation, construction, and reconstruction of streets, utilities, parks, playgrounds, and other public improvements necessary to carry out an urban renewal project;

(5) acquire any real property, including improvements, and any personal property necessary for administrative purposes, that is necessary or incidental to an urban renewal project, hold, improve, clear, or prepare the property for redevelopment, mortgage or otherwise encumber or dispose of the real property, insure or provide for the insurance of real or personal property or municipal operations against any risk or hazard and to pay premiums on that insurance, and enter any necessary contracts;

(6) invest urban renewal project funds held in reserves or sinking funds, or not required for immediate disbursement, in property or securities in which banks may legally invest funds subject to their control, redeem bonds issued under Section 374.026 at the redemption price established in the bond, or purchase those bonds at less than the redemption price, and cancel the bonds redeemed or purchased;

(7) borrow money and apply for and accept advances, loans, grants, contributions, and other forms of financial assistance from the federal, state, or county government, other public body, or other public or private sources for the purposes of this chapter, give any required security, and make and carry out any contracts in connection with the financial assistance;

(8) make plans necessary to carry out this chapter in its area of operation, contract with any person in making and carrying out the plans, and adopt, approve, modify or amend the plans;

(9) develop, test, and report methods and techniques for the prevention of slums and urban blight, conduct demonstrations and

other activities in connection with those methods and techniques, and apply for, accept, and use federal grants made for those purposes;

(10) prepare plans and provide reasonable assistance for the relocation of persons displaced from an urban renewal project area, including families, business concerns, and others, as necessary to acquire possession and to clear the area in order to conduct the urban renewal project;

(11) appropriate funds and make expenditures as necessary to implement this chapter and, subject to Subsection (c), levy taxes and assessments for that purpose;

(12) close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places, plan, replan, zone, or rezone any part of the municipality and make exceptions from building regulations, and enter agreements with an urban renewal agency vested with urban renewal powers under Subchapter C, which may extend over any period, restricting action to be taken by the municipality under any of the powers granted under this chapter;

(13) organize, coordinate, and direct the administration of this chapter within the area of operation as those provisions apply to the municipality to most effectively promote and achieve the purposes of this chapter and establish new municipal offices or reorganize existing offices as necessary to most effectively implement those purposes; and

(14) issue tax increment bonds.

(b) A municipality may include in a contract made with the federal government for financial assistance for an urban renewal project the provisions and conditions imposed by federal law that the municipality considers reasonable, appropriate, and consistent with the purposes of this chapter.

(c) A municipality may not levy a tax or assessment under or for the purposes of this chapter until the proposed levy is submitted to the municipality's voters in an election on the question and a majority of those voting approve the levy.

(d) Except as provided by Section 374.016, a municipality may acquire by condemnation any interest in real property, including a fee simple interest, that the municipality considers necessary for or in connection with an urban renewal project. Property dedicated to a public use may be acquired in that manner, except that property belonging to the state or to a political subdivision of the state may not be acquired without the consent of the state or political

subdivision.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.016. SLUM CLEARANCE. (a) In this section, "slum clearance and redevelopment section" means any substantial contiguous part of an urban renewal area that a municipality proposes to acquire and clear of all buildings, structures, and other improvements for redevelopment and reuse in accordance with the urban renewal plan.

(b) If an urban renewal project includes a slum clearance and redevelopment section that the municipality proposes to use for other than public use, the municipality may not use condemnation to acquire that property unless the municipality determines by resolution that the rehabilitation of that property without clearance would be impractical and ineffective. That determination must be based on a finding that at least 50 percent of the structures in the section are dilapidated beyond the point of feasible rehabilitation or are otherwise unfit for rehabilitation, and that there exist other blighting characteristics, such as overcrowding of structures on the land, mixed uses of structures, deficient streets, or deficiencies in public utilities or recreational and community facilities. A municipality may exercise eminent domain authority as provided by Chapter 21, Property Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.017. DISPOSITION OF PROPERTY. (a) Subject to the covenants, conditions, and restrictions, including covenants running with the land, that the municipality considers to be in the public interest or necessary to implement this chapter and that are written into the instrument transferring or conveying title, and after the governing body of the municipality approves the urban renewal plan, the municipality may:

(1) sell, lease, or otherwise transfer real property or an interest in real property in an urban renewal area for residential, recreational, commercial, industrial, or other uses, including a public use, and enter contracts relating to the transfer; or

(2) retain the property or interest for public use in accordance with the urban renewal plan.

(b) The original owner from whom property was acquired under this chapter by condemnation or through threat of condemnation has the first right to repurchase the property at the price at which it is offered.

(c) The purchaser or lessee of property transferred under this section, and a successor in interest to such a person, including an assignee, must devote the property to the uses specified in the urban renewal plan and may be obligated to comply with conditions specified in the deed of conveyance, including the requirement to begin any improvements required by the urban renewal plan within a reasonable time.

(d) Real property or an interest in real property subject to this section may only be sold, leased, or otherwise transferred or retained at not less than the fair value of the property for uses in accordance with the urban renewal plan. In determining the fair value, the municipality shall consider:

(1) the uses provided in the urban renewal plan;

(2) any restrictions on and any covenants, conditions, and obligations assumed by the purchaser, lessee, or municipality in retaining the property;

(3) the objectives of the plan for the prevention of the recurrence of slums or blighted areas; and

(4) any other matters that the municipality specifies as appropriate.

(e) The municipality or urban renewal agency may provide in an instrument of conveyance to a private purchaser or lessee that the purchaser or lessee may sell any or all of the unimproved property without profit to the seller. After improving a parcel of real property in accordance with the development plan adopted for the area, the purchaser may sell the parcel before completion of the development of the area or tract purchased, but the sale does not relieve that purchaser from the obligation of completing the development of that area or tract. The purchaser may sell a parcel of land purchased for redevelopment to another person who is obligated to improve the parcel as provided by the development plan for that project if the resale is without profit to the seller and if any subsequent purchaser is required to improve the property as provided by the urban renewal plan and by the conditions contained in the deed of conveyance.

(f) A municipality shall sell real property acquired by the

municipality that is to be sold to private developers in accordance with the urban renewal plan as rapidly as is feasible in the public interest and consistent with the goals of the urban renewal plan. An instrument executed by a municipality or by an urban renewal agency that purports to convey any right, title, or interest in any property under this chapter is presumed to be executed in compliance with this chapter with respect to the title or interest of any bona fide lessee, transferee, or purchaser of the property.

(g) A municipality that sells real property in an urban renewal area to a private person must conduct the sale through competitive sealed bids after advertising the offer in the official publication or a newspaper of general circulation. The advertisement must be published once before the 15th day before the date of the sale and must invite bids for the purchase of real property in the urban renewal area either in whole or in parcels as determined by the municipality. Before advertising for bids, the municipality shall adopt as part of the specifications in the general plan of improvement any conditions binding on the purchaser or the purchaser's successors in title, including heirs and assignees. The municipality or urban renewal agency may accept the highest and best responsible bid. The purchase price must be paid in cash. If the municipality or agency determines that the bids received are not satisfactory, it may reject all the bids and readvertise the offer. The urban renewal agency may not sell the property until the price and conditions of sale are approved by the governing body of the municipality. The municipality shall sell any real property acquired in connection with an urban renewal and rehabilitation project within a reasonable time for the purposes applicable to each project, except for the property retained by the municipality for public use. Property to be resold shall be sold within a reasonable time, taking into account the general economic situation at the time of sale.

(h) The municipality may temporarily lease any real property acquired in an urban renewal area, except property that is not fit for human habitation or that is declared substandard by any governmental agency. The lease must provide for a right of cancellation that permits the municipality to sell or dispose of the property for the purposes of this chapter.

(i) The former owner of any real property that is acquired under this chapter and that is not dedicated within a reasonable time to the purposes applicable to the urban renewal project for which it

was acquired is entitled, after notice, to repurchase the property at the price for which it was acquired, less any actual damages sustained by the former owner because of the taking of the property, unless the property is devoted to the urban renewal purposes within 60 days after the date the former owner gives the record owner and the municipality written notice of the intention to exercise the right of repurchase. After a repurchase, any buildings placed on or allowed to remain on the property must conform to the pattern and intent of the urban renewal project if the project is completed.

(j) Any purchaser or lessee who is a private developer of any part of the real property acquired under this chapter may use that property as security to finance the development of the property. The purchaser or lessee may execute and deliver to a lender notes, deeds of trust with powers of sale, mortgages, and other instruments required in connection with obtaining and securing the repayment of the loan. The purchaser or lessee has all the rights, titles, and incidents of ownership available to a purchaser or lessee of land generally, and the person is entitled to mortgage and encumber the property for either the purchase price or for improvements in accordance with the objectives of this chapter. Any subsequent owner or lessee who acquires title through foreclosure of a lien given to secure the indebtedness or through a conveyance or assignment in satisfaction of debt takes title subject only to the restrictive covenants related to the use and improvement of the land that are contained in the original conveyance from the municipality. The owner's or lessee's interest is not subject to any condition precedent or condition subsequent that would result in reverter or forfeiture of title or to any restraint as to the amount for which the property may be resold or leased.

(k) Notwithstanding any other provision of this chapter or of any other law relating to competitive bid requirements, a municipality or urban renewal agency may sell urban renewal land for uses in accordance with an urban renewal plan to a public or private nonprofit corporation or foundation. The sale must be for at least the fair market value of the land as determined by the municipality or urban renewal agency.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. URBAN RENEWAL AGENCY

Sec. 374.021. EXERCISE OF URBAN RENEWAL PROJECT POWERS. (a) A municipality may exercise urban renewal project powers through a board or through municipal officers selected by the governing body of the municipality by resolution. The municipality may exercise those powers through an urban renewal agency created under this subchapter if the governing body by resolution determines that the creation of an urban renewal agency is in the public interest. An urban renewal agency created under this subchapter may exercise all the urban renewal project powers of the municipality.

(b) In this section, "urban renewal project powers" includes the rights, powers, functions, and duties of a municipality under this chapter. The term does not include the power to:

(1) determine an area as a slum area, blighted area, or both and to designate that area as appropriate for an urban renewal project;

(2) approve and amend urban renewal plans and hold public hearings relating to those plans;

(3) establish a general plan for the locality as a whole;

(4) establish a workable program under Section 374.013;

(5) make determinations and findings under Section 374.011(a), 374.013(b), or 374.014(d);

(6) issue general obligation bonds; and

(7) appropriate funds, levy taxes and assessments, and exercise other functions under Subdivisions (11) and (12) of Section 374.015(a).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.022. CREATION OF URBAN RENEWAL AGENCY. (a) An urban renewal agency created in a municipality is a public body corporate and politic.

(b) An urban renewal agency may not transact business or exercise any powers under this chapter until the governing body of the municipality:

(1) adopts a resolution as provided by Section 374.011; and

(2) elects to exercise urban renewal project power through an urban renewal agency as provided by Section 374.021(a).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.023. BOARD OF COMMISSIONERS. (a) If an urban renewal agency is created by a municipality, the mayor of the municipality, with the advice and consent of the governing body of the municipality, shall appoint a board of commissioners for the urban renewal agency.

(b) The board must be composed of at least five but not more than nine members. A member serves a two-year term. The commissioners shall designate one member to serve as chairman and one to serve as vice-chairman for one-year terms. A member of the board must be a resident of the municipality and a real property owner. The number of commissioners shall be determined by the governing body at the time of the appointment of the commissioners and may not be changed more than once every two years. At the time of the initial appointments, a simple majority of the commissioners shall be designated to serve for a one-year term and the remaining members for two-year terms. If a vacancy occurs, the governing body shall fill the vacancy for the unexpired term in the same manner as the initial appointment.

(c) A commissioner serves without compensation but is entitled to necessary expenses incurred in the performance of official duties, including travel expenses.

(d) A certificate of appointment, which is conclusive evidence of the proper appointment of each commissioner, must be filed with the clerk of the municipality.

(e) If the board is composed of five, seven, or nine members, any action by the board, to be valid, must be adopted or rejected by a majority of the total number of the commissioners.

(f) The governing body may remove a commissioner for inefficiency, neglect of duty, or misconduct in office after notice of the charges and a hearing. The commissioner must receive a copy of the charges before the 10th day before the date of the hearing and must have the opportunity to be heard either in person or by counsel.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.024. AGENCY PERSONNEL; REPORT. (a) An urban renewal

agency may employ an executive director, technical experts, and other agents and employees as it determines necessary, and may determine the qualifications, duties, and compensation of those personnel. An agency may employ or retain its own counsel and legal staff to perform required legal services.

(b) On or before March 31 of each year, an urban renewal agency shall file with the municipality a report of its activities for the preceding calendar year. If requested by the governing body of the municipality, the agency shall file a quarterly report. The report must include a complete financial statement by the agency that shows its assets, liabilities, income, and operating expenses as of the end of the reporting period.

(c) At the time the report is filed, the agency shall publish notice of the filing in a newspaper of general circulation in the municipality. The notice must state that the report is available for inspection during business hours in the office of the urban renewal agency and in the office of the municipal secretary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.025. APPROVAL REQUIREMENT. An urban renewal agency created under this subchapter may not undertake a renewal or rehabilitation project until the area proposed as a renewal or rehabilitation area and the plan of improvement for the project area are approved by the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.026. URBAN RENEWAL BONDS. (a) An urban renewal agency created under this subchapter may issue bonds from time to time to finance an urban renewal project, including the payment of principal and interest on any advances for surveys and plans. The agency may also issue refunding bonds for the payment or retirement of bonds previously issued.

(b) Bonds issued under this section must be made payable, both as to principal and interest, only from the income, proceeds, revenues, and funds of the urban renewal agency that are derived from or held in connection with the conduct of urban renewal projects. Payment of the principal and interest of the bonds may be further

secured by a pledge of any loan, grant, or contribution from the federal government, or from any other source, in aid of an urban renewal project, or by a mortgage of such a project if title is held by the urban renewal agency.

(c) A bond issued under this section is not an indebtedness of the state or of a political subdivision of the state other than the issuing urban renewal agency and is not subject to any other law relating to the authorization, issuance, or sale of bonds.

(d) A bond issued under this section is issued for an essential public and governmental purpose and is, with the interest on the bond and the income from it, exempt from taxes.

(e) A bond issued under this section must be authorized by a resolution or ordinance of the governing body of the urban renewal agency and may be issued in one or more series. The bond must bear the date, be payable on demand or mature at a time or times, bear interest at a rate, be in a denomination or denominations, be in either coupon or registered form, carry conversion or registration privileges, have a rank or priority, have a manner of execution, be payable in a medium of payment and at a place or places of payment, be subject to terms of redemption, with or without premium, be secured in a manner, and have any other characteristics, as provided by the resolution, trust indenture, or mortgage issued in relation to the bond.

(f) A bond issued under this section may be sold at not less than par at a public sale held after notice is published in a newspaper of general circulation in the area of operation and in any other medium of publication determined by the urban renewal agency and may also be exchanged for other bonds on a par basis. A bond issued under this section is fully negotiable.

(g) A bond issued under this section may be sold to the federal government at not less than par at a private sale. If less than all of the authorized principal amount of the bonds is sold to the federal government, the balance may be sold at a private sale at not less than par at an interest cost to the urban renewal agency that does not exceed the interest cost to the agency of the part of the bonds sold to the federal government.

(h) If the officials whose signatures appear on bonds or coupons issued under this section cease to be officials of the urban renewal agency before the delivery of the bonds, their signatures are valid for all purposes as if they had remained in office until

delivery.

(i) In an action involving the validity or enforceability of a bond issued under this subchapter or the security for such a bond, a bond that recites in substance that it was issued by an urban renewal agency in connection with an urban renewal project is conclusively considered to have been issued for those purposes, and the project is conclusively considered to have been conducted in accordance with this chapter.

(j) A bank, trust company, banker, savings bank and institution, savings and loan association, investment company, and other person conducting a banking or investment business, an insurance company, insurance association, and other person conducting an insurance business, and an executor, administrator, curator, trustee, and other fiduciary may invest a sinking fund, money, or other fund belonging to it or in its control in any bonds or obligations issued by an urban renewal agency under this section. Those bonds or other obligations must be secured by an agreement between the issuer and the federal government in which the issuer agrees to borrow from the federal government and the federal government agrees to lend to the issuer, before the maturity of the bonds or other obligations, money in an amount that, together with any other money irrevocably committed to the payment of interest on the bonds or other obligations, is sufficient to pay the principal of the bonds or other obligations with interest to maturity. Under the terms of the agreement the money must be used to pay the principal of and interest on the bonds or other obligations at maturity. Those bonds and other obligations are authorized security for a public deposit. Any person may use funds owned or controlled by the person to purchase those bonds or obligations. This subsection does not relieve a person of a duty to exercise reasonable care in selecting securities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. TAX INCREMENT FINANCING FOR URBAN RENEWAL PROJECTS

Sec. 374.031. ELECTION REQUIRED. (a) A municipality may not use the tax increment method of financing prescribed under this subchapter unless a majority of the qualified voters of the municipality voting on the question approve that method of financing

in an election held by the municipality.

(b) The ballot shall be printed to provide for voting for or against the proposition: "Use of tax increment financing for urban renewal purposes."

(c) The election may be held in conjunction with an election held under Section 374.011 or 374.012.

(d) This referendum is not required if the constitutional amendment on tax increment financing is approved by the voters.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.032. TAX INCREMENT FUND. On approval of an urban renewal plan by the governing body of a municipality and on approval of tax increment financing as required by Section 374.031, the governing body by resolution shall establish a fund known as the tax increment fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.033. COMPUTATION OF TAX INCREMENTS. (a) A tax increment is computed by multiplying the total in property taxes levied and collected by the municipality and all other taxing entities on the taxable real property in an urban renewal project area in a year by a fraction, the numerator of which is equal to that year's market value of all taxable real property in the area minus the tax increment base and the denominator of which is equal to that year's market value of all taxable real property in the area.

(b) For the purposes of this chapter, only the tax assessor-collector determines the market value of property located in an urban renewal project area during the time that the project exists. The determination requires the concurrence of the comptroller. A property owner who is aggrieved by a determination of the tax assessor-collector has the same right of appeal as that provided by law to owners of property not affected by this chapter.

(c) At the time an urban renewal project is designated by the governing body, the tax assessor-collector shall, with the concurrence of the comptroller, certify to the governing body the market value of property within the boundaries of the urban renewal district. The tax assessor-collector shall include at its most

recently determined market value any property that is taxable at the time that the urban renewal project is designated and shall include at zero any property that is exempt from taxation at the time that the district is designated.

(d) The tax assessor-collector shall annually certify to the governing body the amount of the captured market value of property within the boundaries of the district and the amount of tax increments produced from that captured market value. The tax assessor-collector shall make the initial certification not later than one year from the date on which an urban renewal project is designated.

(e) For any year in which taxes are to be paid into the tax increment fund established under Section 374.032, a taxing entity may not consider any captured market value with respect to an urban renewal project in computing a debt limitation or for any other purpose except to determine the amount to be paid into the tax increment fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.034. ALLOCATION OF TAX COLLECTIONS AND TAX INCREMENTS; TAX INCREMENT FUND. (a) For the purposes of this chapter, the tax assessor-collector has the sole authority and the duty to collect the taxes levied by the municipality and all other taxing entities on property located within an urban renewal project and to allocate taxes and tax increments in the manner required by this chapter.

(b) Beginning with the first payment of taxes levied by the municipality or other taxing entity after the time an urban renewal project is designated, the receipts from those taxes shall be allocated and paid as provided by this subsection. The receipts from the property taxes collected that are produced from the tax increment base shall first be allocated and paid to the municipality or appropriate taxing entity. All tax increments produced from the captured market value of the property located within the urban renewal project district shall then be deposited into the tax increment fund established for the project.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.035. TAX INCREMENT BONDS. (a) A municipality may issue tax increment bonds, the proceeds of which may be used to pay redevelopment costs relating to the urban renewal project for which the bonds were issued or to satisfy claims of holders of those bonds. On the approval of two-thirds of the qualified voters of the municipality, the municipality may also issue refunding bonds for the payment or retirement of tax increment bonds previously issued by the municipality. The tax increment bonds may be made payable, both as to principal and interest, only from:

(1) tax increments allocated to and paid into the tax increment fund established by the municipality under Section 374.032;

(2) private sources;

(3) contributions or other financial assistance from this state or the United States; or

(4) a combination of those methods.

(b) A tax increment bond issued under this section, with the interest and income from the bond, is exempt from taxation. The period of maturity of a tax increment bond is limited to a maximum of 20 years from the date of issuance. Bonds issued under this section must be authorized by a resolution or ordinance of the governing body of the municipality and may be issued in one or more series. The bond must have the characteristics prescribed by Section 374.026(e) as provided by the resolution, trust indenture, or mortgage issued in relation to the bond.

(c) A bond issued under this section may be sold at not less than par at a public sale after notice published in a newspaper of general circulation in the municipality and in any other medium of publication determined by the governing body or may be exchanged for other bonds on a par basis. A bond issued under this section is fully negotiable.

(d) In an action or proceeding involving the validity or enforceability of a bond issued under this section or the security for such a bond, a bond that recites in substance that it is issued by the municipality in connection with an urban renewal project is conclusively considered to have been issued for those purposes, and the urban renewal project is conclusively considered to have been planned, located, and carried out in accordance with this chapter.

(e) A bank, trust company, banker, savings bank and institution, savings and loan association, investment company, and other person conducting a banking or investment business, an

insurance company, insurance association, and other person conducting an insurance business, and an executor, administrator, curator, trustee, and other fiduciary may invest a sinking fund, money, or other fund belonging to it or in its control in any tax increment bonds issued by a municipality under this section. The bond is an authorized security for a public deposit. Any person may use funds owned or controlled by the person to purchase those bonds. This subsection does not relieve a person of a duty to exercise reasonable care in selecting securities.

(f) Tax increment bonds may be paid only out of the tax increment fund established under Section 374.032. The governing body of the municipality may irrevocably pledge all or part of the fund to the payment of those bonds or notes. The fund or the designated part of the fund may only be used for the payment of those bonds and interest on those bonds until they have been fully paid. A holder of those bonds or coupons relating to the bonds has a lien against the fund for the payment of the bonds or notes and the interest on them and may protect and enforce that lien by an action at law or in equity.

(g) To increase the security and marketability of tax increment bonds, the municipality, according to its best judgment, may:

(1) create a lien for the benefit of the bondholders on a public improvement or public work financed by the bonds or on the revenue from the public improvement or public work; or

(2) make covenants and take other action as necessary, convenient, or desirable to additionally secure the bonds or make the bonds more marketable.

(h) A tax increment bond issued under this section is not a general obligation of the municipality, is not a charge against its general credit or taxing powers, and is not payable other than as provided by this chapter. The tax increment bond must state those limitations on its face.

(i) A tax increment bond issued under this section may not be included in computing the debt of the issuing municipality.

(j) Tax increment bonds may not be issued in an amount exceeding the aggregate costs of implementing the urban renewal plan for the project for which they were issued.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.036. DISBURSEMENTS FROM TAX INCREMENT FUND. (a) Money may be disbursed from a tax increment fund only to satisfy the claims of holders of tax increment bonds issued in aid of the urban renewal project with respect to which the fund was established or to pay project costs. In this section, "project costs" means any expenditure made or estimated to be made, or monetary obligations incurred or estimated to be incurred, by the municipality that are listed in an urban renewal project, plus any incidental costs, less any income or revenues other than tax increments, received or reasonably expected to be received by the municipality in connection with the implementation of the urban renewal plan. Those project costs include:

(1) capital costs, including:

(A) the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures;

(B) the costs of demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures;

(C) the costs of acquisition of equipment; and

(D) the costs of clearing and grading of land;

(2) financing costs, including interest paid to holders of tax increment bonds issued to pay for project costs and any premium paid over the principal amount because of the redemption of the obligation before maturity;

(3) professional service costs, including costs incurred for architectural, planning, engineering, or legal services;

(4) imputed administrative costs, including reasonable charges for the time spent by municipal employees in connection with the implementation of an urban renewal plan; and

(5) organizational costs, including the cost of conducting studies and the cost of informing the public with respect to the creation of urban renewal projects and the implementation of project plans.

(b) Subject to any agreement with holders of tax increment bonds, money in a tax increment fund may be temporarily invested in the same manner as other municipal funds.

(c) After project costs and tax increment bonds issued with respect to an urban renewal project have been paid or payment has been arranged, and subject to any agreement with bondholders, any money remaining in a tax increment fund shall be paid over to the

municipality and to other taxing entities levying taxes on property within the project in amounts belonging to each entity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.037. MUNICIPAL ANNUAL REPORT; STATEMENT. (a) Before July 2 each year, the governing body of the municipality shall submit to the chief executive officer of each taxing entity a report on the status of each urban renewal district. The report must include statements of:

(1) the amount and source of revenue in the tax increment fund established under Section 374.032;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on any outstanding bonded indebtedness;

(4) the tax increment base and the current captured market value retained by the urban renewal project; and

(5) the captured market value shared by the municipality and other taxing entities, the total in received tax increments, and any additional information required to demonstrate compliance with the tax increment financing plan adopted by the governing body.

(b) On or before July 1 each year, the governing body shall publish a statement in a newspaper of general circulation in the municipality showing:

(1) the tax increment received and expended during the previous year;

(2) the original market value and captured market value of all property located within the urban renewal project;

(3) the amount in outstanding indebtedness incurred in aid of the urban renewal project; and

(4) any additional information the governing body considers necessary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 374.901. USE OF ACQUIRED PROPERTY FOR PUBLIC HOUSING. (a) Except as provided by Subsection (b), real property acquired under this chapter may not be sold, leased, granted, conveyed, or otherwise

made available for public housing.

(b) Real property acquired under this chapter may be made available for public housing if the municipality holds an election at which a majority of the qualified voters voting in the election approve that use of the property. The municipality shall conduct the election in the manner provided for an election under Section 374.011. The ballot shall be printed to provide for voting for or against the proposition: "Permitting the use of land acquired by urban renewal for public housing."

(c) If the qualified voters of a municipality have approved the use of land acquired under this chapter for public housing, the municipality may order an election on prohibiting the use of that land for public housing. The municipality shall conduct the election in the manner provided by Subsection (b), except that the ballot shall be printed to provide for voting for or against the proposition: "Prohibiting the use of land acquired by urban renewal for public housing." If a majority of the voters voting in the election favor prohibiting the use of the land for public housing, the prohibition contained in Subsection (a) applies. An election that results in the prohibition of the use of land for public housing does not affect land that has been made available for public housing at the time of the election.

(d) If a municipality holds an election under this section, the municipality may not hold another election under this section for one year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.902. EXERCISE OF URBAN RENEWAL POWERS BY CERTAIN COUNTIES. (a) Unless the context clearly requires otherwise, a statement in this chapter that applies to a mayor applies to the county judge of a county exercising powers under this section, a statement that applies to the governing body of a municipality applies to the county's commissioners court, and a statement that applies to a municipality applies to the county.

(b) A county with a population of more than 250,000 and located along an international border or a county with a population of more than 1.3 million may exercise the powers provided for municipalities under this chapter with respect to areas of the county that are not

within the corporate boundaries of a municipality. A county with a population of more than 250,000 and located along an international border may exercise the powers provided for municipalities under this chapter with respect to areas of the county located within the corporate boundaries of a municipality, if the municipality approves the county's participation in an urban renewal project through an interlocal agreement under Chapter 791, Government Code. The county may not exercise those powers until the commissioners court of the county adopts a resolution in the manner provided by Section 374.011 for adoption of a resolution by a municipality. The resolution must be approved at an election held in the county in the manner provided for a municipal election under Section 374.011. The adoption of the resolution is not approved unless a majority of the voters who vote on the question in the entire county as well as in each municipality in the county approve the adoption of the resolution. In a municipality that is only partially located in the affected county, only voters who reside in the county may vote.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 105, eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 224 (H.B. 139), Sec. 1, eff. June 14, 2013.

Sec. 374.903. URBAN RENEWAL IN DISASTER AREA. If the governing body of a municipality certifies that an area needs redevelopment or rehabilitation because of a flood, fire, hurricane, earthquake, storm, or other catastrophe for which the governor has certified the state's need for disaster assistance under applicable federal law, the governing body may approve an urban renewal plan and an urban renewal project for the affected area without regard to Section 374.014(d) and to the provisions of this chapter that require a general plan for the municipality and a public hearing on the urban renewal project.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.904. COSTS OF RELOCATION. If the relocating, raising, rerouting, changing of grade, or altering the construction of a

railroad, electric transmission line, pipeline, or telephone or telegraph property or facility is made necessary by the exercise of powers conferred under this chapter on a municipality, an urban renewal agency, or another public body, the necessary action shall be made at the expense of the public body that made the change necessary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.905. MUNICIPAL PROPERTY EXEMPT FROM LEVY AND EXECUTION. (a) All municipal property, including funds, owned or held for the municipality for the purposes of this chapter are exempt from levy and sale by execution. An execution or other judicial proceeding may not issue against the property, and a judgment against the municipality may not be a charge or lien on that property. This subsection does not apply to or limit the right of an obligee to pursue any remedies for the enforcement of any pledge or lien given under this chapter by a municipality on its rents, fees, grants, or revenues from urban renewal projects.

(b) If real property in the urban renewal project area is acquired and is owned as part of the project by a municipality or the urban renewal agency, and the project is not subject to ad valorem taxes because of Subsection (a), the gross project cost may include reasonable payments in lieu of taxes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.906. POWERS OF PUBLIC BODY. (a) To aid in the planning or implementation of an urban renewal project located within the area in which it is authorized to act, any public body, after determining that a project is beneficial to its residents and after setting terms with or without consideration, may:

(1) dedicate, sell, convey, or lease any of its interest in any urban renewal project or grant easements, licenses, or other rights and privileges in the project to a municipality or urban renewal agency;

(2) incur the entire expense of any public improvements made by the public body in exercising the powers granted under this section;

(3) do anything necessary to aid or cooperate in the planning or implementation of an urban renewal plan;

(4) lend, grant, or contribute funds to a municipality or an urban renewal agency;

(5) enter into agreements that may extend over any period with a municipality, urban renewal agency, or other public body relating to action to be taken by the public body under any of the powers granted under this chapter, including furnishing funds or other assistance in connection with an urban renewal project;

(6) furnish public buildings and public facilities, including parks, playgrounds, recreational facilities, community facilities, educational facilities, water, sewer, or drainage facilities, or other public works;

(7) furnish, dedicate, pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places;

(8) plan, replan, zone, or rezone any part of the public body or make exceptions from building regulations; or

(9) furnish administrative and other services to the municipality or urban renewal agency.

(b) If title to or possession of any urban renewal project is held by the federal government, the provisions of an agreement under this section inure to and may be enforced by the federal government.

(c) A sale, conveyance, lease, or agreement under this section may be made by and between public bodies without appraisal, public notice, advertisement, or public bidding.

(d) To aid in planning or conducting an urban renewal project through an urban renewal agency under this chapter, a municipality may perform all of the functions that a public body may perform under Subsection (a), including furnishing financial and other assistance.

(e) For the purposes of this section or to aid in the planning or carrying out of a municipal urban renewal project, a municipality may issue and sell general obligation bonds in addition to bonds issued under Section 374.026. Bonds issued under this section must be issued in the manner and are subject to the limitations generally provided by the laws of this state for the issuance and authorization of municipal bonds for public purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.907. TITLE OF PURCHASER. An instrument executed by a municipality or by an urban renewal agency that purports to convey a right, title, or interest in property under this chapter is conclusively presumed to have been executed in compliance with this chapter as regards the title or other interest of a bona fide purchaser, lessee, or transferee of the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.908. CONFLICT OF INTEREST. (a) A public official or employee of a municipality, including an official or employee of an urban renewal agency that exercises urban renewal project powers for a municipality under Subchapter C or of any other municipal board or commission, may not voluntarily acquire any direct or indirect interest in an urban renewal project, in any property included or planned to be included in an urban renewal project or plan, or in any contract, or contract proposed, in connection with an urban renewal project.

(b) If the acquisition is not voluntary, the official or employee shall immediately disclose the acquisition of the interest in writing to the governing body of the municipality. The governing body shall enter the disclosure on its minutes. Not later than three months after the date on which the involuntary acquisition occurs, the official or employee shall either resign the position with the municipality or divest the interest.

(c) If the official or employee owns or controls any direct or indirect interest in property that the person knows is included or planned to be included in an urban renewal project, or if the official or employee owned or controlled any such interest at any time during the two-year period preceding the inclusion or planned inclusion of the property in an urban renewal project, the official or employee shall immediately disclose that fact in writing to the governing body of the municipality. The governing body shall enter the disclosure on its minutes. The official or employee may not participate in any action by the municipality or by the urban renewal agency that affects the property.

(d) Any required disclosure made under this section to the governing body of the municipality must also be made at the same time to the urban renewal agency that exercises urban renewal project

powers under Section 374.021. A commissioner or other officer of an urban renewal agency or other board who exercises powers under this chapter may not hold any other public office with the municipality.

(e) A violation of this section is official misconduct.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.909. JUDICIAL PROCEEDINGS. (a) An action brought to review, modify, suspend, or satisfy a rule, order, decision, or other act of the governing body of a municipality or other agency shall be trial de novo as that term is used in an appeal from a justice of the peace court to a county court. In the trial, no presumptions in favor of the order or rule apply, and evidence relating to the validity or reasonableness of the order or rule may not be heard. The determination of the action shall be made on the facts as in other civil cases, and the procedure used and the determination of orders and judgments to be entered in the trial shall be under the rules of law, evidence, and procedure prescribed under the constitution, statutes, and rules of procedure of this state applicable to civil trials.

(b) The trial of an action brought under this section shall be strictly de novo and the decision in the action shall be made on the preponderance of the evidence presented at the trial, independent of any administrative action taken by the board and free from the application of the substantial evidence rule stated by the courts relating to orders of other administrative or quasi-judicial agencies.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 374.910. EFFECT ON MUNICIPAL POWERS. (a) This chapter does not repeal a charter provision adopted by a home-rule municipality to accomplish the same purposes as this chapter. This chapter is cumulative of municipal powers.

(b) The powers conferred by this chapter are supplemental to the powers conferred on municipalities by the charters of home-rule municipalities of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 375. MUNICIPAL MANAGEMENT DISTRICTS IN GENERAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 375.001. LEGISLATIVE FINDINGS; PURPOSES. (a) The creation of a municipal management district is declared to be essential to the accomplishment of the purposes of Article III, Section 52, Article XVI, Section 59, and Article III, Section 52-a, of the Texas Constitution and to the accomplishment of the other public purposes stated in this chapter.

(b) The creation of each district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the commercial areas of municipalities and metropolitan areas of this state.

(c) The creation of districts and this chapter may not be interpreted to relieve any municipality from providing services to an area included in the district or to release the municipality from the obligation it has to provide municipal services to that area. A district is created to supplement and not supplant the municipal services of the municipality.

(d) All of the land and other property to be included within the boundaries of a district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52, Article XVI, Section 59, and Article III, Section 52-a, of the Texas Constitution and other powers granted under this chapter.

(e) A district is created to serve a public use and benefit.

(f) The creation of a district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment, and the development or expansion of transportation and commerce and is in the public interest.

(g) A district will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district and the general public.

(h) A district is designed to provide needed funding for metropolitan areas to preserve, maintain, and enhance the economic health and vitality of the areas as community and business centers.

(i) The present and prospective traffic congestion in municipalities in this state, the need for traffic control and the

safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and a district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by a district will be attractive, safe, and convenient and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public.

(j) A district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district that are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty.

(k) A district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(l) The purpose of this chapter is to promote and benefit commercial development and commercial areas throughout the state. Each improvement project or service authorized by this chapter is found and declared to carry out a public purpose.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.002. CONSTRUCTION OF CHAPTER. (a) This chapter shall be liberally construed in conformity with the findings and purposes in Section 375.001.

(b) If any provision of general law is in conflict or inconsistent with this chapter, this chapter prevails. Any general law not in conflict or inconsistent with this chapter is adopted and incorporated by reference.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.003. DEFINITIONS. In this chapter:

(1) "Board" means a board of directors of a district.

(2) "Bond" means any type of interest-bearing obligation, including a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit and at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians;

(B) a sole proprietorship formed for the purpose of making a profit that is owned, operated, and controlled exclusively by one or more persons described by Paragraph (A);

(C) a partnership that is formed for the purpose of making a profit, in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by Paragraph (A), and in which minority or women partners have a proportionate interest in the control, operation, and management of the partnership affairs;

(D) a joint venture between minority and women's group members formed for the purpose of making a profit and the minority participation in which is based on the sharing of real economic interest, including equally proportionate control over management, interest in capital, and interest earnings, other than a joint venture in which majority group members own or control debt securities, leasehold interest, management contracts, or other interests;

(E) a supplier contract between persons described in Paragraph (A) and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies; or

(F) a person certified as a disadvantaged business by:

(i) this state;

(ii) a political subdivision of this state; or

(iii) a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391.

(5) "District" means a management district created under this chapter.

(6) "Mass transit" means transportation of passengers and their hand-carried packages or baggage by motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the preceding and includes stations or terminals and public parking facilities and facilities incidental to or related to any of the preceding, including commercial or shopping areas.

(7) "System" means all real and personal property owned or held by a district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of those facilities.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.256, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 1, eff. September 1, 2011.

Sec. 375.004. GOVERNMENTAL AGENCY; TORT CLAIMS. (a) A district is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) A district is a unit of government for purposes of Chapter 101, Civil Practice and Remedies Code (Texas Tort Claims Act), and operations of a district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 375.022. PETITION. (a) Before a district may be created, the commission must receive a petition requesting creation of the district.

(b) The petition must be signed by the owners of a majority of the assessed value of the real property in the proposed district that would be subject to assessment by the district, according to the most recent certified county property tax rolls.

(c) The petition must:

(1) describe the boundaries of the proposed district:

(A) by metes and bounds;

(B) by verifiable landmarks, including a road, creek, or railroad line; or

(C) if there is a recorded map or plat and survey of the area, by lot and block number;

(2) state the specific purposes for which the district will be created;

(3) state the general nature of the work, projects, or services proposed to be provided, the necessity for those services, and the costs as estimated by the persons filing the petition;

(4) include a name of the district, which must be generally descriptive of the location of the district, followed by "Management District" or "Improvement District";

(5) include a proposed list of initial directors that includes the directors' experience and initial term of service; and

(6) include a resolution of the governing body of the municipality in support of the creation of the district.

(d) The petition may request that a succeeding board of directors be elected under Section 375.0645 instead of being appointed under Section 375.064.

(e) On receipt by the commission of a petition that complies with this section, the commission shall issue a notice indicating that the petition is administratively complete and may conduct a hearing on the petition in the manner provided by Section 49.011, Water Code, if the commission determines that a hearing is necessary.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 2, eff. September 1, 2011.
Acts 2017, 85th Leg., R.S., Ch. 761 (S.B. 1987), Sec. 3, eff. June 12, 2017.
Acts 2019, 86th Leg., R.S., Ch. 717 (H.B. 304), Sec. 1, eff. September 1, 2019.
Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 1, eff. June 18, 2023.

Sec. 375.025. HEARING. (a) Repealed by Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 32(2), eff. June 18, 2023.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 32(2), eff. June 18, 2023.

(c) If the commission finds that the petition is sufficient and conforms to the requirements of Section 375.022(c) and that the district is feasible and would benefit the public, the commission by order shall make that finding and grant the petition. In determining if the project is feasible and would benefit the public, the commission shall consider:

(1) the availability of comparable services from other systems, including special districts, municipalities, and regional authorities; and

(2) the reasonableness of the proposed public purpose projects and services.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 2, eff. June 18, 2023.
Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 32(2), eff. June 18, 2023.

Sec. 375.026. ORDER; INITIAL DIRECTORS. If the commission grants the petition, the commission in the order creating the

district shall state the specific purposes for which the district is created and shall appoint the initial directors.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

SUBCHAPTER C. BOUNDARIES

Sec. 375.041. COMMISSION ORDER. The boundaries of a district are as prescribed by the commission order creating the district. The commission may issue a subsequent order changing the boundaries of the district.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.042. MISTAKE IN BOUNDARY DESCRIPTION. If in the petition or order a mistake is made in the field notes or in copying the field notes of the boundaries of a district, the mistake does not affect:

(1) the organization, existence, and validity of the district;

(2) the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

(3) the right of the district to levy and collect assessments or taxes; or

(4) the legality or operation of the district or its governing body.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.043. ANNEXATION; NOTICE OF BOUNDARIES. (a) A district may annex land as provided by Section 49.301 and Chapter 54, Water Code, subject to the approval of the governing body of the municipality.

(b) Not later than the 90th day after the date a district annexes land under Subsection (a), the district shall provide a

description of the metes and bounds of the district, as of the date the annexation takes effect, to each municipality that, on the date the annexation takes effect:

(1) has territory that overlaps with the district's territory; or

(2) is adjacent to the district.

(c) The district is not required to provide the description of the metes and bounds required under Subsection (b) to a municipality that has waived in writing the municipality's right to the description.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 3, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 793 (H.B. 2018), Sec. 1, eff. September 1, 2019.

Sec. 375.044. EXCLUDING TERRITORY; NOTICE OF BOUNDARIES. (a) At any time during which a district does not have outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board shall call a hearing on the exclusion of land or other property from the district if a signed petition evidencing the consent of the owners of a majority of the acreage in the district, according to the most recent certified tax roll of the county, is filed with the secretary of the board requesting the hearing before the issuance of bonds.

(c) Not later than the 90th day after the date a district excludes land under this section, the district shall provide a description of the metes and bounds of the district, as of the date the exclusion takes effect, to each municipality that, on the date the exclusion takes effect:

(1) has territory that overlaps with the district's territory; or

(2) is adjacent to the district.

(d) The district is not required to provide the description of the metes and bounds required under Subsection (c) to a municipality that has waived in writing the municipality's right to the description.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 4, eff. September 1, 2011.
Acts 2019, 86th Leg., R.S., Ch. 793 (H.B. 2018), Sec. 2, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 793 (H.B. 2018), Sec. 3, eff. September 1, 2019.

SUBCHAPTER D. ADMINISTRATIVE PROVISIONS; BOARD OF DIRECTORS

Sec. 375.061. NUMBER OF DIRECTORS; TERMS. A district is governed by a board of at least five but not more than 30 directors who serve staggered four-year terms.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 5, eff. September 1, 2011.

Sec. 375.062. TERMS OF INITIAL DIRECTORS. The initial directors shall be divided into two groups that are as equal in number as possible; one group serves four-year terms and one group serves two-year terms. The grouping of initial directors and terms for the directors in each group shall be determined by the commission.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.063. QUALIFICATIONS OF DIRECTOR. To be qualified to serve as a director, a person must be at least 18 years old and:

(1) an owner of property in the district;

(2) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(3) an owner of a beneficial interest in a trust that owns property in the district; or

(4) an agent, employee, or tenant of a person covered by Subdivision (1), (2), or (3).

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 717 (H.B. 304), Sec. 2, eff. September 1, 2019.

Sec. 375.064. RECOMMENDATIONS FOR SUCCEEDING BOARD. (a) The initial and each succeeding board of directors shall, and the owners of a majority of the assessed value of property subject to assessment by the district may, recommend to the governing body of the municipality persons to serve on the succeeding board.

(b) After reviewing the recommendations, the governing body shall approve or disapprove the directors recommended under Subsection (a).

(c) If the governing body is not satisfied with the recommendations submitted under Subsection (a), the board, on the request of the governing body, shall submit to the governing body additional recommendations.

(d) Board members may serve successive terms.

(e) If any provision of Subsections (a) through (d) is found to be invalid, the commission shall appoint the board from recommendations submitted by the preceding board.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 912, Sec. 20, eff. September 1, 2011.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 20, eff. September 1, 2011.
Acts 2019, 86th Leg., R.S., Ch. 717 (H.B. 304), Sec. 3, eff. September 1, 2019.

Sec. 375.0645. ELECTION OF DIRECTORS. (a) This section applies only to a district created by order of the commission providing for an elected board of directors as requested in the petition requesting creation of the district as provided by Section 375.022(d).

(b) The commission shall appoint the initial directors under Section 375.026, and subsequent directors are elected in the manner provided by Subchapter D, Chapter 49, Water Code.

(c) An elected director is entitled to receive fees of office and reimbursement for actual expenses as provided by Section 49.060, Water Code.

(d) Sections 375.069 and 375.070 do not apply to an elected director.

(e) Section 49.052(f), Water Code, does not exempt an elected director from disqualification under that section.

(f) Sections 375.064, 375.161, and 375.243 do not apply to a district with an elected board.

Added by Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 3, eff. June 18, 2023.

Sec. 375.065. REMOVAL OF DIRECTOR. The governing body of the municipality after notice and hearing may remove a director appointed by the municipality for misconduct or failure to carry out the director's duties on petition by a majority of the remaining directors.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 4, eff. June 18, 2023.

Sec. 375.066. BOARD VACANCY. A vacancy in the office of director shall be filled by the remaining members of the board for the unexpired term.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.067. DIRECTOR'S BOND AND OATH. (a) As soon as practicable after a director is appointed or elected as provided by this subchapter, the director shall execute a $10,000 bond payable to the district and conditioned on the faithful performance of the director's duties.

(b) Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers.

(c) The bond and oath shall be filed with the district and retained in its records.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 5, eff. June 18, 2023.

Sec. 375.068. OFFICERS. After directors are appointed or elected as provided by this subchapter and have qualified by executing a bond and taking the oath, they shall organize by electing a president, a vice-president, a secretary, and any other officers the board considers necessary.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 6, eff. June 18, 2023.

Sec. 375.069. BOARD POSITION NOT CIVIL OFFICE OF EMOLUMENT. A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26,

1991.

Sec. 375.070. COMPENSATION OF DIRECTORS; REIMBURSEMENT OF EXPENSES. A director is not entitled to compensation for service on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.071. QUORUM. (a) One-half of the serving directors constitutes a quorum, and a concurrence of a majority of a quorum of directors is required for any official action of the district.

(b) If at least two-thirds of the directors execute a written consent at any time, a majority of a quorum at a board meeting may authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds. A director may execute a written consent outside of a board meeting.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 6, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 7, eff. June 18, 2023.

Sec. 375.072. PARTICIPATION IN VOTING. (a) A person who qualifies to serve on the board under Section 375.063 is qualified to serve as a director and participate in all votes pertaining to the business of the district regardless of any other statutory provision to the contrary.

(b) A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a

similar pecuniary benefit.

(c) An employee of a public entity may serve on the board of directors of the district, but the public employee may not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

SUBCHAPTER E. POWERS AND DUTIES

Sec. 375.091. GENERAL POWERS OF DISTRICT. A district has the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water Code.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.225, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 7, eff. September 1, 2011.

Sec. 375.092. SPECIFIC POWERS. (a) A district has the powers necessary or convenient to carry out and effect the purposes and provisions of this chapter, including the powers granted in this section.

(b) A district has perpetual succession.

(c) A district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond.

(d) A district may incur liabilities, borrow money on terms and conditions the board determines, and issue notes, bonds, or other obligations.

(e) A district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of real and personal property, and licenses, patents, rights, and

interests necessary, convenient, or useful for the full exercise of any of its powers under this chapter.

(f) A district may acquire, construct, complete, develop, own, operate, and maintain permanent improvements and provide services that directly benefit property in the district, regardless of whether the improvements or services are located inside or outside its boundaries.

(g) A district may enter into agreements with a person or entity, public or private, for the joint use of facilities, installations, and property.

(h) A district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(i) A district may enter contracts, leases, and agreements with and accept grants and loans from the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable.

(j) A district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

(k) A district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or properties that are not needed for or, in the case of leases, that are not inconsistent with the efficient operation and maintenance of the district's improvements. A district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for its requirements or for the purpose of carrying out its powers under this chapter.

(l) A district may lease projects or any part of a project to or contract for the use or operation of the projects or any part of a project by any operator.

(m) A district may conduct hearings and take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this chapter.

(n) A district may procure and pay premiums to insurers for

insurance of any type in amounts considered necessary or advisable by the board.

(o) A district may do anything necessary, convenient, or desirable to carry out the powers expressly granted or implied by this chapter.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 717 (H.B. 304), Sec. 4, eff. September 1, 2019.

Sec. 375.0921. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, a district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

(b) The district may impose ad valorem taxes to provide for mass transit systems in the manner and subject to the limitations provided by Section 52, Article III, and Section 52-a, Article III, Texas Constitution.

Added by Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 8, eff. September 1, 2011.

Sec. 375.0922. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 8, eff. September 1, 2011.

Sec. 375.093. USE AND ALTERATION OF PUBLIC WAYS. (a) With the consent of the municipality, the district is entitled to use the streets, alleys, roads, highways, and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other property, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system or to have those things done at the district's sole expense.

(b) The district may not proceed with any action to change, alter, or damage the property or facilities of the state, its municipal corporations, agencies, or political subdivisions or of owners rendering public services, or that will disrupt those services being provided by others, or to otherwise inconvenience the owners of that property or those facilities without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(c) If a district, in exercising any of the powers conferred by this chapter, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad track, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains, or other facilities or property, any water, geothermal water conveyance,

sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities, or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 455 (H.B. 4370), Sec. 3, eff. September 1, 2025.

Sec. 375.094. NO EMINENT DOMAIN POWER. A district may not exercise the power of eminent domain.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.095. MANAGEMENT BY BOARD OF DIRECTORS. The responsibility for the management, operation, and control of the property belonging to a district is vested in the board.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.096. SPECIFIC POWERS AND DUTIES OF BOARD. (a) The board may:

(1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies and prescribe the duties, tenure, and compensation of each;

(2) dismiss employees;

(3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by Subchapter A, Chapter 2256, Government Code and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an independent certified public accountant or a firm of independent certified public accountants; and

(7) designate one or more banks to serve as the depository bank or banks.

(b) Funds of a district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board by resolution may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(c) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(d) The name of the district may be established or changed by resolution of the board.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(11), eff. Sept. 1, 1995.

Sec. 375.097. HEARINGS EXAMINER; ADMINISTRATIVE PROCEDURE ACT. (a) The board may appoint a hearings examiner to conduct any hearing called by the board, including a hearing required by Chapter 395. The hearings examiner may be an employee or contractor of the district, or a member of the district's board.

(b) The hearing shall be conducted in accordance with Chapter

2001, Government Code.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 9, eff. September 1, 2011.

Sec. 375.098. DISTRICT ACT OR PROCEEDING PRESUMED VALID. (a) A governmental act or proceeding of a district is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if:

(1) the third anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;

(3) a rule that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or

(4) a matter that on the effective date of this section:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(B) has been held invalid by a final judgment of a court.

Added by Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 10, eff. September 1, 2011.

SUBCHAPTER F. ASSESSMENTS

Sec. 375.111. GENERAL POWERS RELATING TO ASSESSMENTS. In addition to the powers provided by Subchapter E, the board of a

district may undertake improvement projects and services that confer a special benefit on all or a definable part of the district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and services. If the board determines that there is a benefit to the district, the district may provide improvements and services to an area outside the boundaries of the district.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.112. SPECIFIC POWERS RELATING TO ASSESSMENTS. (a) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and sidewalks; pedestrian skywalks, crosswalks, and tunnels; seawalls; marinas; drainage and navigation improvements; pedestrian malls; solid waste, water, sewer, and power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities and geothermal water conveyance facilities or improvements; parks, plazas, lakes, rivers, bayous, ponds, and recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; theatres, studios, exhibition halls, production facilities and ancillary facilities in support of the foregoing; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1);

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this chapter, Chapter 54, Water Code, or Chapter 365 or 441, Transportation Code;

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic

congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(b) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.226, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 11, eff. September 1, 2011.

Acts 2025, 89th Leg., R.S., Ch. 455 (H.B. 4370), Sec. 4, eff. September 1, 2025.

Sec. 375.113. PROPOSED ASSESSMENTS. Services or improvement projects may be financed under this chapter after a hearing notice given as required by this subchapter and a public hearing by the board on the advisability of the improvements and services and the proposed assessments.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.114. PETITION REQUIRED. The board may not finance improvement projects or services under this chapter unless a written petition has been filed with the board requesting those improvements or services signed by:

(1) the owners of a majority of the assessed value of the property in the district subject to assessment, according to the most recent certified county property tax rolls; or

(2) for a proposed assessment to be apportioned under Section 375.119(1), the owners of a majority of the surface area of the real property subject to assessment by the district, according to the most recent certified county property tax rolls.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26,

1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 12, eff. September 1, 2011.
Acts 2019, 86th Leg., R.S., Ch. 717 (H.B. 304), Sec. 5, eff. September 1, 2019.

Sec. 375.115. NOTICE OF HEARING. (a) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 30th day before the date of the hearing.
(b) The notice must include:
(1) the time and place of the hearing;
(2) the general nature of the proposed improvement project or services;
(3) the estimated cost of the improvement, including interest during construction and associated financing costs; and
(4) the proposed method of assessment.
(c) Written notice containing the information required by Subsection (b) shall be mailed by certified mail, return receipt requested, or by another method determined by the board to provide adequate proof that the notice was timely mailed, not later than the 30th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the current address of the property to be assessed as reflected on the tax rolls.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1265 (H.B. 871), Sec. 1, eff. September 1, 2009.

Sec. 375.116. CONCLUSION OF HEARING; FINDINGS. (a) A hearing on the services or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time.
(b) At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the

improvement project or services, the nature of the improvement project or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment.

(c) If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating the examiner's findings and conclusions.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.117. AREA TO BE ASSESSED. (a) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing.

(b) Except as provided by Subsection (c), the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the required notice.

(c) The owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.118. OBJECTIONS; LEVY OF ASSESSMENT. (a) At a hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment.

(b) The board may amend proposed assessments for any parcel.

(c) After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic

installments, including interest.

(d) Periodic installments must be in amounts sufficient to meet annual costs for services and improvements as provided by Section 375.119 and continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection.

(e) If assessments are levied for more than one service or improvement project, the board may provide that assessments collected for one service or improvement project may be borrowed to be used for another service or improvement project.

(f) The board shall establish a procedure for the distribution or use of any assessments in excess of those necessary to finance the services or improvement project for which those assessments were collected.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.119. APPORTIONMENT OF COST. The portion of the cost of an improvement project or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project or services. The cost may be assessed:

(1) equally by front foot or by square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.120. ASSESSMENT ROLL. If the total cost of an improvement project or services is determined, the board shall levy

the assessments against each parcel of land against which an assessment may be levied in the district. With regard to an assessment for services, the board may levy an annual assessment that may be lower but not higher than the initial assessment. The board shall have an assessment roll prepared showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.121. INTEREST ON ASSESSMENTS; LIEN. (a) Assessments bear interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 1204, Government Code.

(b) Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to each subsequent installment until paid.

(c) An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid.

(d) The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.331, eff. Sept. 1, 2001.

Sec. 375.122. SUPPLEMENTAL ASSESSMENTS. After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment:

(1) relating to the total cost of the improvement project or services; or

(2) covering delinquencies or costs of collection.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.123. APPEAL. (a) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal.

(b) The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to the assessment.

(c) Failure to file either of the notices in the time required by this section results in a loss of the right to appeal the assessment.

(d) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.124. APPEAL OF ORDER. A person against whom an assessment is made by board order may appeal the assessment to a district court in the county in which the district is located in the manner provided for the appeal of contested cases under Chapter 2001, Government Code. Review by the district court is by trial de novo.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

SUBCHAPTER G. IMPACT FEES

Sec. 375.141. IMPOSITION OF IMPACT FEES. (a) The board may

impose impact fees to pay for the cost of providing improvements that the district is authorized to provide under this chapter, including mass transit systems.

(b) The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid.

(c) The board may provide interest charges and penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.142. PROCEDURE FOR ADOPTING IMPACT FEES. Impact fees shall be adopted under the procedures provided by Chapter 395, Local Government Code.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

SUBCHAPTER H. EXEMPTIONS

Sec. 375.161. CERTAIN RESIDENTIAL PROPERTY EXEMPT. (a) Except as provided by Subsection (b), the board may not impose an impact fee, assessment, tax, or other requirement for payment, construction, alteration, or dedication under this chapter on single-family detached residential property, duplexes, triplexes, and fourplexes.

(b) This section does not apply to a tax or assessment, if a tax is authorized or approved by the voters of the district, or to a required payment for a service provided by the district, including water and sewer services.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 2, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 8, eff. June 18, 2023.

Sec. 375.162. GOVERNMENTAL ENTITIES; ASSESSMENTS. Payment of assessments by municipalities, counties, other political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, shall be established by contract. Municipalities, counties, and other political subdivisions may contract with the district under terms and conditions those entities consider advisable to provide for the payment of assessments.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.163. RECREATIONAL, PARK, OR SCENIC USE PROPERTY. (a) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use during the immediately preceding calendar year and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property.

(b) Property is exempt from assessment by the district under this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section.

(c) The fact that property is exempt from assessment by the district may not be construed to be an express or implied dedication of the property to the public for recreational, park, scenic, or other public use or constitute evidence of an intent by the owner of the property to make or offer to make that type of dedication and does not affect the status of the property as private property.

(d) If the district levies ad valorem taxes, property that qualifies for an exemption from assessment under this section must be taxed by the district at its appraised value for recreational, park, or scenic use determined in accordance with Subchapter F, Chapter 23, Tax Code.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.164. RESIDENTIAL PROPERTY EXEMPTED BY BOARD. The board may exempt residential property from all or a part of the assessments levied on that property or determine that residential property will not be benefited by the proposed improvement project or services.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.165. GOVERNMENTAL ENTITIES; IMPACT FEES. (a) A municipality, county, or other political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or other political subdivision consents to payment of the fees by official act of its governing body.

(b) Payment of impact fees by a municipality, county, or other political subdivision must be established by contract.

(c) A municipality, county, or other political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

SUBCHAPTER I. FUNDS

Sec. 375.181. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES. (a) The cost of any improvement project or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project or services and issue bonds on completion.

(c) The costs of more than one improvement project or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.182. PROHIBITED USE OF FUNDS. Funds may not be spent, an assessment imposed, or a tax levied under this chapter to finance the opening, reopening, or maintenance of a pass, canal, or waterway across a barrier island connecting the Gulf of Mexico with inland waters.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

SUBCHAPTER J. BONDS

Sec. 375.201. GENERAL OBLIGATION AND REVENUE BONDS. For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this chapter, including installment payments of special assessments or from any other source pledged to their payment.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.202. TERMS AND CONDITIONS OF BONDS. (a) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated in the order or resolution authorizing the issuance of the bonds.

(b) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code.

(c) The bonds may be issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denominations, and manner and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates determined and provided in the order or resolution authorizing the issuance of the bonds.

(d) Bonds may bear interest and may be issued in accordance with Chapters 1201, 1204, and 1371, Government Code, and Subchapters A-C, Chapter 1207, Government Code.

(e) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any improvement project to be provided through the issuance of the bonds, to pay administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, to pay costs associated with the issuance of the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.332, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 13, eff. September 1, 2011.

Sec. 375.203. PLEDGES. (a) The board may pledge all or part of the income or assessments from improvement projects financed under this chapter or from any other source to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds and, to the extent required by the order or resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds and to pay

operation, maintenance, and other expenses in connection with the improvement projects authorized under this chapter.

(b) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this chapter owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(c) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.204. REFUNDING BONDS. (a) Bonds issued under this chapter may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board. Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to provide for the payment of costs incurred in connection with the refunding.

(b) The refunding bonds shall be issued in the manner provided by this chapter for other bonds.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.205. APPROVAL BY ATTORNEY GENERAL; REGISTRATION. (a) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination. This subsection applies only to bonds that are public securities, as that term is defined by Section 1202.001, Government Code.

(b) If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy

of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it.

(c) If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, the attorney general shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller.

(d) After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for any reason and are valid and binding obligations for all purposes in accordance with their terms.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 14, eff. September 1, 2011.

Sec. 375.206. AUTHORIZED INVESTMENTS; SECURITY. (a) District bonds are legal and authorized investments for:

(1) banks, trust companies, and savings and loan associations;

(2) insurance companies;

(3) fiduciaries, trustees, and guardians; and

(4) all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state, including counties, municipalities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic.

(b) District bonds are eligible and lawful security for deposits of counties, municipalities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.207. MUNICIPAL APPROVAL. (a) A district must obtain the approval of the governing body of the municipality in which it is located for bond issues for an improvement project and the plans and specifications of an improvement project financed by the bond issue before those bonds may be issued.

(b) Instead of approval of bonds by the municipality, the district before finally approving a capital improvements budget may obtain approval from the governing body of the municipality of a capital improvements budget for a period not to exceed five years. If a district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the municipality.

(c) A district must obtain approval from the municipality of the plans and specifications of any improvement project that involves the use of the rights-of-way of streets, roads, or highways or the use of municipal land or any easements granted by the municipality.

(d) Except as provided by Section 375.263, a municipality is not obligated to pay any bonds, notes, or other obligations of the district.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.208. COMMISSION APPROVAL. A district must obtain approval of the commission as provided by Section 49.181, Water Code, only if the bonds are to provide water, sewage, or drainage facilities.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1009 (H.B. 2815), Sec. 9, eff. June 18, 2023.

Sec. 375.209. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct annual ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by

Sections 54.601 and 54.602, Water Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 15, eff. September 1, 2011.

SUBCHAPTER K. COMPETITIVE BIDDING; DISADVANTAGED BUSINESSES

Sec. 375.221. APPLICABILITY OF WATER DISTRICTS LAW TO COMPETITIVE BIDDING ON CERTAIN CONTRACTS. (a) Except as provided by Subsection (b) of this section, Subchapter I, Chapter 49, Water Code, applies to a district contract for construction work, equipment, materials, or machinery.

(b) The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement if:

(1) there is an emergency;

(2) the needed materials are available from only one source;

(3) in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement; or

(4) after solicitation, it is ascertained that there will be only one bidder.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 20, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 13, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 16, eff. September 1, 2011.

Sec. 375.222. DISADVANTAGED BUSINESSES. (a) A district shall attempt to stimulate the growth of disadvantaged businesses inside its boundaries by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete

for district contracts.

(b) A district shall establish one or more programs designed to increase participation by disadvantaged businesses in public contract awards. Each program shall be structured to further remedial goals and shall be established to eradicate the effects of any prior discrimination.

(c) The board shall review each of its disadvantaged business programs on an annual basis to determine if each program is the most effective method for remedying historical discriminatory actions. The board's review shall determine whether statistically significant disparities exist between the disadvantaged businesses in the relevant market that are qualified to undertake district work and the percentage of total district funds that are awarded to disadvantaged businesses.

(d) A program established by a district under this section must attempt to remedy any statistically significant disparities that are found to exist, and, because a program is remedial in nature, it continues only until its purposes and objectives are met as determined by the regular periodic review.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.223. SUPERSEDES OTHER LAW. This chapter states the required procedures necessary for the district to award contracts and supersedes any law or other requirement with respect to award of contracts.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

SUBCHAPTER L. ELECTIONS

Sec. 375.241. TIME OF ELECTION. (a) A bond election, maintenance tax election, and any other election held in a district may be held at the same time and in conjunction with any other election.

(b) Elections shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.242. ELECTION CALLED BY BOARD. The board may call an election for the purpose of voting on any measure.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.243. PETITION REQUIRED FOR BOND ELECTION. The board may not call a bond election unless a written petition has been filed with the board requesting an election signed by the owners of a majority of the assessed value of the property subject to assessment or taxation by the district as determined from the most recent certified county property tax rolls.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 717 (H.B. 304), Sec. 6, eff. September 1, 2019.

Sec. 375.244. ELECTION TO APPROVE ISSUANCE OF BONDS. (a) Bonds payable in whole or in part from taxes may not be issued unless approved by a majority or any larger percentage if required by the constitution of the qualified voters in the district voting at an election held for that purpose.

(b) Bonds payable from sources other than taxes may be issued by the board, and assessments may be levied without approval at an election.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

SUBCHAPTER M. DISSOLUTION

Sec. 375.261. DISSOLUTION BY BOARD VOTE. Except as limited by Section 375.264, the board of a district by majority vote may

dissolve the district at any time.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.262. DISSOLUTION BY PETITION BY OWNERS. Except as limited by Section 375.264, the board shall dissolve the district on written petition filed with the board by the owners of at least two-thirds of the assessed value of the property subject to assessment or taxation by the district based on the most recent certified county property tax rolls.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 717 (H.B. 304), Sec. 7, eff. September 1, 2019.

Sec. 375.2621. PROHIBITION ON ISSUANCE OF BONDS AFTER PETITION. If a petition for dissolution under Section 375.262 is filed with the board, the board must consider the petition not later than the 60th day after the date the petition is filed. The district may not issue bonds secured by assessments after the date the board confirms that the petition is valid and complete under Section 375.262.

Added by Acts 2021, 87th Leg., R.S., Ch. 520 (S.B. 604), Sec. 1, eff. September 1, 2021.

Sec. 375.263. DISSOLUTION BY MUNICIPAL ORDINANCE. (a) The governing body of a municipality in which a district is wholly located, by a vote of not less than two-thirds of its membership, may adopt an ordinance dissolving the district.

(b) On the adoption of the ordinance, the district is dissolved, and, in accordance with Section 43.075, the municipality succeeds to the property and assets of the district and assumes all bonds, debts, obligations, and liabilities of the district.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26,

1991. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.20, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 17, eff. September 1, 2011.

Sec. 375.264. LIMITATIONS ON DISSOLUTION BY BOARD OF DISTRICT WITH DEBT. (a) A district may not be dissolved by its board under Section 375.261 or after a petition is filed under Section 375.262 if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) If a petition for dissolution is filed under Section 375.262 with the board of a district and the district has outstanding bonded indebtedness secured by assessments:

(1) the district shall remain in existence solely for the purposes of winding up district operations and discharging its bonded indebtedness; and

(2) the board shall use all district money that is available to:

(A) wind up district operations; and

(B) repay or defease the bonded indebtedness as soon as practicable in accordance with the order or resolution authorizing the issuance of the bonds.

(c) Subsection (b) does not apply to a district that has outstanding bonded indebtedness secured by a source other than assessments on the date the petition is filed with the board.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.21, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 18, eff. September 1, 2011.
Acts 2021, 87th Leg., R.S., Ch. 520 (S.B. 604), Sec. 2, eff. September 1, 2021.

SUBCHAPTER N. CONTRACTS WITH DISTRICT

Sec. 375.281. CONTRACTS WITH DISTRICT. Notwithstanding any other law to the contrary, a state agency, municipality, county, other political subdivision, corporation, individual, or other entity may contract with a district without further authorization to carry out the purposes of this chapter.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.05(a), eff. Aug. 26, 1991.

Sec. 375.282. STRATEGIC PARTNERSHIP AGREEMENT. A district with territory in the extraterritorial jurisdiction of a municipality may negotiate and enter into a written strategic partnership with the municipality under Section 43.0751.

Added by Acts 2011, 82nd Leg., R.S., Ch. 912 (S.B. 1234), Sec. 19, eff. September 1, 2011.

SUBCHAPTER O. DEFENSE ADJUSTMENT MANAGEMENT AUTHORITY

Sec. 375.301. LEGISLATIVE FINDINGS; PURPOSES. (a) The legislature finds that:

(1) the closure of certain defense bases has had a negative impact on the economic development of the areas within the former defense bases and the areas in the general vicinity of the former defense bases and that the creation of the specific type of authority provided for in this subchapter is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution;

(2) it is an appropriate role for a municipality to foster economic opportunity, job generation, and capital investment by promoting a favorable business climate, preparing the workforce for productive employment, and supporting infrastructure development in areas around defense bases that are intended to be annexed by the municipality; and

(3) the programs designed to create a competent and qualified workforce are essential both to the economic growth and vitality of many municipalities in this state and to the elimination of unemployment and underemployment in those municipalities.

(b) The programs authorized by this subchapter are in the public interest, promote the economic welfare of this state, and

serve the public purpose of developing and diversifying the economy of this state and of eliminating unemployment and underemployment in this state.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.

Sec. 375.302. CONSTRUCTION OF SUBCHAPTER. (a) This subchapter shall be liberally construed in conformity with the findings and purposes stated in Section 375.301.

(b) Except as provided by this subchapter, the other provisions of this chapter apply to an authority created under this subchapter.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.

Sec. 375.303. DEFINITIONS. In this subchapter:

(1) "Authority" means a defense adjustment management authority created under this subchapter.

(2) "Eligible project" means a program authorized by Section 379A.051 and a project as defined by Section 501.002 and Sections 505.151-505.156. Notwithstanding this definition, seeking a charter for or operating an open-enrollment charter school authorized by Subchapter D, Chapter 12, Education Code, shall not be an eligible project.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.22, eff. April 1, 2009.

Sec. 375.304. ELIGIBILITY FOR CREATION BY MUNICIPALITY. (a) The governing body of a municipality by resolution or ordinance may create an authority in an area that is:

(1) in the same county as a military installation or facility that is:

(A) closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) and its subsequent amendments; or

(B) a base efficiency project as defined by Section

379B.001; and

(2) in an area that has been annexed or disannexed for full or limited purposes under Subchapter F, Chapter 43, by a municipality with a population of at least 1.1 million or is in the extraterritorial jurisdiction of a municipality with a population of at least 1.1 million and that has been annexed for limited purposes by the municipality under Subchapter F, Chapter 43.

(b) Subchapter B and Sections 375.041 and 375.042 do not apply to this subchapter.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 334 (S.B. 1105), Sec. 1, eff. June 17, 2005.

Sec. 375.305. HEARING ON CREATION OF AUTHORITY. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of the municipality creates the authority, the governing body of the municipality shall hold two public hearings to consider the creation of the proposed authority. The municipality must publish notice of each public hearing in a newspaper of general circulation in the area of the proposed authority at least seven days before each public hearing.

(b) The notice required by Subsection (a) must state:

(1) the name of the proposed authority;

(2) the date, time, and place for the public hearing;

(3) the boundaries of the proposed authority, including a map of the proposed authority; and

(4) the powers of the proposed authority, including the power to levy assessments and to impose a sales and use tax.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 334 (S.B. 1105), Sec. 2, eff. June 17, 2005.

Sec. 375.306. BOARD OF DIRECTORS. (a) The board consists of 11 directors.

(b) The municipality shall appoint four members of the board.

(c) The county in which the municipality is primarily located shall appoint four members of the board.

(d) School districts whose boundaries overlap with an authority by 5,000 or more acres shall collectively appoint three members of the board.

(e) Except for the presiding officer, directors are appointed for terms of two years. Terms of directors may be staggered, and directors may serve successive terms.

(f) A vacancy on the board is filled for the unexpired term by the governing body of the entity that appointed the director who served in the vacant position.

(g) The mayor of the municipality and the county judge of the county in which the authority is primarily located shall, alternately, appoint one director to serve as presiding officer, with the first appointment to be made by the mayor of the municipality. The presiding officers shall serve for a term of four years beginning on January 1 of the year following the appointment. The board may elect an assistant presiding officer to preside in the absence of the presiding officer or when there is a vacancy in that office. The board may elect other officers as it considers appropriate.

(h) Sections 375.061, 375.063, 375.066, and 375.068 and the limitations of Section 375.072(c) do not apply to this subchapter.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 334 (S.B. 1105), Sec. 3, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 663 (S.B. 1493), Sec. 1, eff. June 17, 2011.

Sec. 375.307. QUALIFICATIONS OF DIRECTORS. (a) At least three directors appointed by the municipality and at least three directors appointed by the county must:

(1) reside in the authority; or

(2) own property in the authority.

(b) Representatives or agents of a school district whose boundaries overlap with an authority or of an institution of higher education that operates facilities within an authority may serve on the board.

(c) To be qualified to serve as a director appointed by the municipality or the county, a person who does not meet the qualifications of Subsection (a) must be:

(1) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the authority;

(2) an owner of a beneficial interest in a trust that owns property in the authority; or

(3) an agent, employee, or tenant of a person who:

(A) owns property in the authority; or

(B) is covered by Subdivision (1) or (2).

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 663 (S.B. 1493), Sec. 2, eff. June 17, 2011.

Sec. 375.308. POWERS OF THE AUTHORITY; MUNICIPALITY. (a) An authority:

(1) may plan, design, implement, develop, construct, and finance eligible projects as defined in this subchapter; and

(2) has the powers of a municipality under Chapter 378, as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999, and Chapter 380.

(b) An authority may not:

(1) issue bonds or notes without the prior approval of the governing body of the municipality that created the authority;

(2) seek a charter for or operate, within the boundaries of the authority, an open-enrollment charter school authorized by Subchapter D, Chapter 12, Education Code; or

(3) levy ad valorem property taxes.

(c) A municipality may not seek a charter for or operate an open-enrollment charter school authorized by Subchapter D, Chapter 12, Education Code, within the boundaries of the authority.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.

Sec. 375.3085. ANNEXATION OR DISANNEXATION. (a) The board may vote to annex or disannex territory to an authority.

(b) Not earlier than the 60th or later than the 30th day before

the date the board votes on the annexation or disannexation, the board shall hold two public hearings to consider the annexation or disannexation. The board must publish notice of each public hearing in a newspaper of general circulation in the area of the proposed annexed or disannexed territory at least seven days before each public hearing.

(c) The notice must state:

(1) the date, time, and place for the public hearing; and

(2) the amended boundaries of the authority, including a map of the proposed annexation or disannexation of territory in the authority.

(d) If the board approves the proposed annexation or disannexation, the board shall submit the action to the governing body of the municipality for approval. The annexation or disannexation takes effect on the date the governing body of the municipality approves the annexation or disannexation by ordinance.

(e) Section 375.043 does not apply to the authority.

Added by Acts 2005, 79th Leg., Ch. 334 (S.B. 1105), Sec. 4, eff. June 17, 2005.

Sec. 375.309. MUNICIPAL ANNEXATION OF AREA IN AN AUTHORITY. (a) A municipality that creates an authority under this subchapter may annex all or part of the territory located in the authority under Chapter 43.

(b) Annexation of territory located in the authority does not affect the operation of the authority.

(c) Creation of an authority does not:

(1) affect the power of the municipality to designate all or part of an area in the authority as an industrial authority;

(2) limit a power of the municipality conferred by Chapter 42; or

(3) impose a duty on or affect the power of the municipality to provide municipal services to any area in the municipality or its extraterritorial jurisdiction that is in the authority.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.

Sec. 375.310. AUTHORITY PLAN. (a) An authority may only develop or construct public improvements or eligible projects in areas designated in an authority plan approved by the board and the governing body of the municipality that created the authority.

(b) The plan must include the information required for a municipal reinvestment zone under Sections 311.011(b) and (c), Tax Code, for the area of the authority. For the purposes of applying those sections, the area of the authority affected constitutes a zone.

(c) The authority shall generate the plan based on the economic development needs of the property owners and constituents in the authority.

(d) After approval by the board, the authority shall submit the plan to the municipality for approval. Before taking action to approve or reject the plan, the municipality shall make a copy of the proposed plan available to the public and hold hearings and publish notice of the hearings in the manner required by Section 375.305. The notice of the public hearings must state where a copy of the proposed plan is available for inspection.

(e) The board may amend and submit the approved plan to the governing body of the municipality for approval.

(f) Before approving the authority's plan or any amendment, the municipality shall publish notice and hold hearings as required by Subsection (d).

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 334 (S.B. 1105), Sec. 5, eff. June 17, 2005.

Sec. 375.311. SALES AND USE TAX. (a) An authority may impose a sales and use tax to support or finance public infrastructure projects and eligible projects authorized under this subchapter if the tax is authorized by a majority of the qualified voters of the authority voting at an election held for that purpose in the manner provided by Sections 375.241 and 375.242.

(b) If an authority adopts the tax authorized by Subsection (a), a tax is imposed on the receipts from the sale at retail of taxable items within the authority at the rate approved by the

voters. The rate must be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent.

(c) Chapter 321, Tax Code, governs the imposition, computation, administration, governance, and abolition of a tax imposed under this section.

(d) If any territory in the authority is annexed by the municipality, the municipality's sales and use tax applies in the annexed area. If the authority's sales and use tax rate, when combined with any other sales and use tax applicable in the authority, exceeds two percent, the authority's sales and use tax is abolished upon annexation.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.

Sec. 375.312. ZONING AND PLANNING. (a) An authority has the power of a municipality under Chapters 211 and 212 in the area of the authority, including an area of the authority that is in the boundaries of a municipality's limited purpose jurisdiction. On annexation of an area of the authority for full purposes by a municipality, the authority's power to regulate the area under Chapter 211 or 212 expires. The authority regains the power in an area if the municipality disannexes the area.

(b) The board may divide the authority into distinct areas as provided by Section 211.005 to accomplish the purposes of this chapter and Chapter 211.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 334 (S.B. 1105), Sec. 6, eff. June 17, 2005.

Sec. 375.313. REGIONAL DEVELOPMENT AGREEMENTS. (a) An authority may enter into regional development agreements with its creating municipality, other municipalities, counties, school districts, institutions of higher education, other political subdivisions, and private interests to:

(1) promote and advance long-term economic development in the authority; or

(2) achieve the purposes for the authority's creation and

to implement the powers provided to the authority under this chapter.

(b) An authority, a municipality, a school district whose boundary overlaps with a portion of an authority, or an institution of higher education may enter into an agreement to:

(1) fund improvements to school facilities and teacher compensation of school districts or institutions of higher education in the authority; and

(2) develop programs provided for in Section 379A.051.

(c) Any agreement entered into with a school district under this section shall be designed in such a way that the school district funding under Title 2, Education Code, shall be not less than the school district would have received had the school district not entered into the agreement. This provision may be waived by a school district board of trustees by specific action suspending the provisions of this subsection.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.

Sec. 375.314. DISSOLUTION OF THE AUTHORITY. (a) The governing body of the municipality that created an authority under this subchapter may dissolve the authority.

(b) Before dissolution, the municipality shall publish notice and hold public hearings on the proposed dissolution in the manner provided in Section 375.305.

(c) On dissolution, the municipality shall assume the assets, debts, and other obligations of the authority.

(d) Subchapter M does not apply to this subchapter.

Added by Acts 2003, 78th Leg., ch. 961, Sec. 1, eff. June 20, 2003.

Sec. 375.315. EFFECTIVENESS STUDY; REPORT. (a) The board of an authority shall study the effectiveness of the authority.

(b) Not later than December 31 of each even-numbered year, the board of an authority shall report to the legislature on the effectiveness of the authority. The report must:

(1) compare utility and infrastructure development in:

(A) the authority since the authority's creation; and

(B) areas in the municipality that created the authority that are not in the authority;

(2) identify methods for improving residential, commercial, and industrial development in the authority;

(3) identify limitations and impediments to development in the authority;

(4) identify methods to improve the authority's accountability to property owners in the authority; and

(5) identify any competitive advantage opportunities of the authority.

Added by Acts 2011, 82nd Leg., R.S., Ch. 663 (S.B. 1493), Sec. 3, eff. June 17, 2011.

SUBCHAPTER P. CONSOLIDATION OF DISTRICTS

Sec. 375.351. CONSOLIDATION OF DISTRICTS. (a) Two or more districts may consolidate into one district under this subchapter if none of the districts to be consolidated has issued bonds or notes secured by assessments or ad valorem taxes, or has levied taxes.

(b) To initiate a consolidation, the board of a district shall adopt a resolution proposing a consolidation and deliver a copy of the resolution to the board of each district with which consolidation is proposed.

(c) A consolidation under this subchapter occurs if the board of each involved district adopts a resolution containing the terms and conditions for the consolidation.

Added by Acts 2009, 81st Leg., R.S., Ch. 1155 (H.B. 3009), Sec. 1, eff. June 19, 2009.

Sec. 375.352. TERMS AND CONDITIONS FOR CONSOLIDATION. (a) The terms and conditions for consolidation must include:

(1) adoption of a name for the consolidated district;

(2) the number and apportionment of directors to serve on the board of the consolidated district;

(3) the effective date of the consolidation;

(4) an agreement on finances for the consolidated district, including disposition of funds, property, and other assets of each district; and

(5) an agreement on governing the districts during the transition period, including selection of officers.

(b) The terms and conditions for consolidation may include any terms or conditions to which the board of each district agrees.

Added by Acts 2009, 81st Leg., R.S., Ch. 1155 (H.B. 3009), Sec. 1, eff. June 19, 2009.

Sec. 375.353. NOTICE AND HEARING ON CONSOLIDATION. (a) Each district's board shall publish notice and hold a public hearing in its district regarding the terms and conditions for consolidation of the districts.

(b) Notice of the hearing must be published one time in a newspaper of general circulation in the area of each district at least seven days before the date of the hearing.

(c) After the hearing, the board by resolution may approve the terms and conditions for consolidation and enter an order consolidating the districts.

Added by Acts 2009, 81st Leg., R.S., Ch. 1155 (H.B. 3009), Sec. 1, eff. June 19, 2009.

Sec. 375.354. GOVERNING CONSOLIDATED DISTRICTS. (a) After two or more districts are consolidated, they become one district and are governed as one district.

(b) During the transition period, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) The consolidated district may exercise the powers of the districts being consolidate within the respective boundaries of the original districts. For land annexed into the consolidated district, the consolidated district may exercise any of the powers of the original districts.

Added by Acts 2009, 81st Leg., R.S., Ch. 1155 (H.B. 3009), Sec. 1, eff. June 19, 2009.

Sec. 375.355. DEBTS OF ORIGINAL DISTRICTS. (a) After two or more districts are consolidated, the consolidated district shall protect the debts of the original districts and shall assure that the

debts are not impaired. If the consolidated district has taxing authority, the debts may be paid by taxes levied on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

(b) If the consolidated district has taxing authority and assumes the bonds, notes, and other obligations of the original districts, taxes may be levied uniformly on all taxable property within the consolidated district to pay the debts.

Added by Acts 2009, 81st Leg., R.S., Ch. 1155 (H.B. 3009), Sec. 1, eff. June 19, 2009.

Sec. 375.356. ASSESSMENT AND COLLECTION OF TAXES. If the consolidated district has taxing authority, the district shall assess and collect taxes on all property in the district uniformly, for maintenance and operation of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 1155 (H.B. 3009), Sec. 1, eff. June 19, 2009.

Sec. 375.357. FILING OF ORDER WITH COUNTY CLERK AND EXECUTIVE DIRECTOR. A consolidation order issued by the board shall be kept in the records of the consolidated district, recorded in the office of the county clerk in each of the counties in the consolidated district, and filed with the executive director of the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 1155 (H.B. 3009), Sec. 1, eff. June 19, 2009.

CHAPTER 376. CONTRACTUAL ASSESSMENTS FOR ENERGY EFFICIENCY IMPROVEMENTS

Sec. 376.001. AUTHORIZED FINANCING. An assessment under this chapter may finance:

(1) energy efficiency public improvements to developed lots for which the costs and time delays of creating an entity under law to assess the lot would be prohibitively large relative to the cost of the energy efficiency public improvement to be financed; and

(2) the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property.

Added by Acts 2009, 81st Leg., R.S., Ch. 655 (H.B. 1937), Sec. 1, eff. September 1, 2009.

Sec. 376.002. CERTAIN FINANCING PROHIBITED. An assessment under this chapter may not be used to finance:

(1) facilities for undeveloped lots or lots undergoing development at the time of the assessment; or

(2) the purchase or installation of appliances not permanently fixed to real property.

Added by Acts 2009, 81st Leg., R.S., Ch. 655 (H.B. 1937), Sec. 1, eff. September 1, 2009.

Sec. 376.003. CONSENT FOR ASSESSMENT REQUIRED. A municipality may impose an assessment under this chapter only with the consent of the owner of the assessed property at the time of the assessment.

Added by Acts 2009, 81st Leg., R.S., Ch. 655 (H.B. 1937), Sec. 1, eff. September 1, 2009.

Sec. 376.004. DESIGNATION OF AREA FOR ASSESSMENT. (a) The governing body of a municipality may determine that it is convenient and advantageous to designate an area of the municipality within which authorized municipal officials and property owners may enter into contracts to assess properties for energy efficiency public improvements described by Section 376.001(1) and make financing arrangements under this chapter.

(b) The governing body of a municipality may determine that it is convenient, advantageous, and in the public interest to designate an area of the municipality within which authorized municipal officials and property owners may enter into contracts to assess properties to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property.

(c) An area designated by the governing body of a municipality under this section may include the entire municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 655 (H.B. 1937), Sec. 1, eff. September 1, 2009.

Sec. 376.005. RESOLUTION OF INTENTION TO CONTRACT FOR ASSESSMENT. (a) To make a determination under Section 376.004, the governing body of a municipality must adopt a resolution indicating the governing body's intention to designate an area for assessment.

(b) The resolution of intention must:

(1) include a statement that the municipality proposes to make contractual assessment financing available to property owners;

(2) identify the types of energy efficiency public improvements, distributed generation renewable energy resources, or energy efficiency improvements that may be financed;

(3) describe the boundaries of the area in which contracts for assessments may be entered into;

(4) thoroughly describe the proposed arrangements for financing the program; and

(5) state the time and place for a public hearing and that interested persons may object to or inquire about the proposed program at the hearing.

(c) If contractual assessments are to be used to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property, the resolution of intention must state that it is in the public interest to do so.

(d) The resolution shall direct an appropriate municipal official to:

(1) prepare a report under Section 376.006; and

(2) consult with the appropriate appraisal district or districts regarding collecting the proposed contractual assessments with property taxes imposed on the assessed property.

Added by Acts 2009, 81st Leg., R.S., Ch. 655 (H.B. 1937), Sec. 1, eff. September 1, 2009.

Sec. 376.006. REPORT REGARDING ASSESSMENT. An appropriate

municipal official designated in the resolution shall prepare a report containing:

(1) a map showing the boundaries of the area within which contractual assessments are proposed to be offered;

(2) a draft contract specifying the terms that would be agreed to by the municipality and a property owner within the contractual assessment area;

(3) a statement of municipal policies concerning contractual assessments including:

(A) identification of types of energy efficiency public improvements, distributed generation renewable energy sources, or energy efficiency improvements that may be financed through the use of contractual assessments;

(B) identification of a municipal official authorized to enter into contractual assessments on behalf of the municipality;

(C) a maximum aggregate dollar amount of contractual assessments;

(D) a method for ranking requests from property owners for financing through contractual assessments in priority order if requests appear likely to exceed the authorization amount; and

(E) a method for ensuring that property owners requesting financing demonstrate the financial ability to fulfill financial obligations under the contractual assessments;

(4) a plan for raising a capital amount required to pay for work performed in accordance with contractual assessments that:

(A) may include:

(i) amounts to be advanced by the municipality through funds available to it from any source; and

(ii) the sale of bonds or other financing;

(B) shall include a statement of or method for determining the interest rate and period during which contracting property owners would pay any assessment; and

(C) shall provide for:

(i) any reserve fund or funds; and

(ii) the apportionment of all or any portion of the costs incidental to financing, administration, and collection of the contractual assessment program among the consenting property owners and the municipality; and

(5) the results of the consultations with the appropriate appraisal districts concerning incorporating the proposed contractual

assessments into the assessments of property taxes.

Added by Acts 2009, 81st Leg., R.S., Ch. 655 (H.B. 1937), Sec. 1, eff. September 1, 2009.

Sec. 376.007. DIRECT PURCHASE BY OWNER. On the written consent of an authorized municipal official, the proposed arrangements for financing the program pertaining to the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property may authorize the property owner to:

(1) purchase directly the related equipment and materials for the installation of the distributed generation renewable energy sources or energy efficiency improvements; and

(2) contract directly for the installation of the distributed generation renewable energy sources or energy efficiency improvements.

Added by Acts 2009, 81st Leg., R.S., Ch. 655 (H.B. 1937), Sec. 1, eff. September 1, 2009.

Sec. 376.008. LIEN. An assessment imposed under this chapter and any interest or penalties on the assessment constitutes a lien against the lot on which the assessment is imposed until the assessment, interest, or penalty is paid.

Added by Acts 2009, 81st Leg., R.S., Ch. 655 (H.B. 1937), Sec. 1, eff. September 1, 2009.

CHAPTER 377. MUNICIPAL DEVELOPMENT DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 377.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of a municipal development district.

(2) "District" means a municipal development district created under this chapter.

(3) "Development project" means:

(A) a "project" as that term is defined by Sections

505.151-505.158; or

(B) a convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, or auditorium, including parking areas or facilities that are used to park vehicles and that are located at or in the vicinity of other convention center facilities.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 232 (S.B. 466), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.23, eff. April 1, 2009.

Sec. 377.002. SCOPE. (a) A municipality may create a district as provided in this chapter in:

(1) all or part of the boundaries of the municipality;

(2) all or part of the boundaries of the municipality and all or part of the boundaries of the municipality's extraterritorial jurisdiction; or

(3) all or part of the municipality's extraterritorial jurisdiction.

(b) The municipality may include territory outside of the municipality only to the extent that territory is in the municipality's extraterritorial jurisdiction.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 20, Sec. 1, eff. May 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 232 (S.B. 466), Sec. 2, eff. September 1, 2005.

Sec. 377.003. CONSTITUTIONAL PURPOSE. This chapter creates a program under Section 52-a, Article III, Texas Constitution.

Added by Acts 2005, 79th Leg., Ch. 232 (S.B. 466), Sec. 3, eff. September 1, 2005.

SUBCHAPTER B. MUNICIPAL DEVELOPMENT DISTRICT

Sec. 377.021. CREATION. (a) A municipality may call an election on the question of creating a municipal development district under this chapter to plan, acquire, establish, develop, construct, or renovate one or more development projects beneficial to the district.

(b) The order calling the election must:

(1) define the boundaries of the district; and

(2) call for the election to be held within those boundaries.

(c) The ballot at an election held under this section must be printed to permit voting for or against the proposition: "Authorizing the creation of the ____ Municipal Development District (insert name of district) and the imposition of a sales and use tax at the rate of ____ of one percent (insert one-eighth, one-fourth, three-eighths, or one-half, as appropriate) for the purpose of financing development projects beneficial to the district."

(d) The district is created if a majority of the registered voters of the proposed district voting at the election favor creation of the district.

(e) If a majority of the registered voters of the proposed district voting at the election to create the district vote against creation of the district, the municipality may not hold another election on the question of creating a municipal development district before the first anniversary of the most recent election concerning creation of a district.

(f) The Election Code governs an election held under this chapter.

(g) In the order calling the election, the municipality may provide for the district boundaries to conform automatically to any changes in the boundaries of the portion of the municipality or the municipality's extraterritorial jurisdiction included in the district, and the election shall be held on one of the four uniform election dates under Section 41.001, Election Code.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 20, Sec. 2, eff. May 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 232 (S.B. 466), Sec. 4, eff. September 1, 2005.

Sec. 377.022. POLITICAL SUBDIVISION; OPEN MEETINGS. (a) A district is a political subdivision of this state and of the municipality that created the district.

(b) A district is subject to Chapter 551, Government Code.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 232 (S.B. 466), Sec. 5, eff. September 1, 2005.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 377.051. COMPOSITION AND APPOINTMENT OF BOARD. (a) A district is governed by a board of at least four directors.

(b) The board is appointed by the governing body of the municipality that created the district.

(c) Directors serve staggered two-year terms. A director may be removed by the appointing municipality at any time without cause. Successor directors are appointed in the same manner as the original appointees.

(d) To qualify to serve as a director, a person must reside in the municipality that created the district or in that municipality's extraterritorial jurisdiction. An employee, officer, or member of the governing body of the municipality may serve as a director, but may not have a personal interest in a contract executed by the district other than as an employee, officer, or member of the governing body of the municipality.

(e) Notwithstanding Subsection (d), a person may qualify to serve as a director of a district if the person resides in the independent school district that serves the majority of the district and the district is located in a municipality:

(1) with a population of more than 5,000 and less than 6,000 and that is located wholly in a county with a population of more than 20,000 and less than 25,000 and that borders the Brazos River; or

(2) with a population of more than 1,450 and less than 2,500 and that is located wholly in a county with a population of more than 20,000 and less than 30,000 that borders the Neches River

and the Trinity River.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 232 (S.B. 466), Sec. 6, eff. September 1, 2005.
Acts 2015, 84th Leg., R.S., Ch. 874 (H.B. 3186), Sec. 1, eff. June 18, 2015.
Acts 2021, 87th Leg., R.S., Ch. 470 (H.B. 4356), Sec. 1, eff. June 14, 2021.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 188, eff. September 1, 2023.

Sec. 377.052. COMPENSATION. A board member is not entitled to compensation, but is entitled to reimbursement for actual and necessary expenses.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

Sec. 377.053. MEETINGS. The board shall conduct its meetings in the municipality that created the district.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 232 (S.B. 466), Sec. 7, eff. September 1, 2005.

Sec. 377.054. OFFICERS. The board shall designate from the members of the board a presiding officer, a secretary, and other officers the board considers necessary.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 377.071. GENERAL POWERS OF DISTRICT. (a) A district may:

(1) perform any act necessary to the full exercise of the district's powers;

(2) accept a grant or loan from a:

(A) department or agency of the United States;

(B) department, agency, or political subdivision of this state; or

(C) public or private person;

(3) acquire, sell, lease, convey, or otherwise dispose of property or an interest in property, including a development project, under terms and conditions determined by the district;

(4) employ necessary personnel; and

(5) adopt rules to govern the operation of the district and its employees and property.

(b) A district may contract with a public or private person to:

(1) plan, acquire, establish, develop, construct, or renovate a development project; or

(2) perform any other act the district is authorized to perform under this chapter.

(c) A district may not levy an ad valorem tax.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

Sec. 377.072. DEVELOPMENT PROJECT FUND. (a) A district shall establish by resolution a fund known as the development project fund. The district may establish separate accounts within the fund.

(b) The district shall deposit into the development project fund:

(1) the proceeds from any sales and use tax imposed by the district;

(2) all revenue from the sale of bonds or other obligations by the district; and

(3) any other money required by law to be deposited in the fund.

(c) Except as provided by Subsections (d) and (e), the district may use money in the development project fund only to:

(1) pay the costs of planning, acquiring, establishing, developing, constructing, or renovating one or more development projects located:

(A) in the district; or

(B) outside the district, if:

(i) the project is located in the extraterritorial

jurisdiction of the municipality that created the district;

(ii) the board determines that the development project will provide an economic benefit to the district; and

(iii) the following entities, as applicable, by resolution approve the development project:

(a) the municipality that created the district; and

(b) each municipality in whose corporate limits or extraterritorial jurisdiction the project is located;

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the district or to refund bonds or other obligations; or

(3) pay the costs of operating or maintaining one or more development projects during the planning, acquisition, establishment, development, construction, or renovation or while bonds or other obligations for the planning, acquisition, establishment, development, construction, or renovation are outstanding.

(d) A district located in a county with a population of 3.3 million or more may use money in the development project fund only to:

(1) pay the costs of planning, acquiring, establishing, developing, constructing, or renovating one or more development projects beneficial to the district if the projects are in the district boundaries or the extraterritorial jurisdiction of the municipality where the district is located;

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the district or to refund bonds or other obligations; or

(3) pay the costs of operating or maintaining one or more development projects during the planning, acquisition, establishment, development, construction, or renovation or while bonds or other obligations for the planning, acquisition, establishment, development, construction, or renovation are outstanding.

(e) A district that is located in a municipality with a population of more than 5,000 and less than 6,000 and that is located wholly in a county with a population of more than 20,000 and less than 25,000 and that borders the Brazos River may use money in the development project fund only to:

(1) pay the costs of planning, acquiring, establishing, developing, constructing, or renovating one or more development

projects inside the county in which the district is located, if the project:

(A) accomplishes a public purpose of the district;

(B) allows the district to retain control over the money to ensure that the district's public purpose is accomplished and to protect the district's investment; and

(C) benefits the district;

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the district or to refund bonds or other obligations; or

(3) pay the costs of operating or maintaining one or more development projects during the planning, acquisition, establishment, development, construction, or renovation or while bonds or other obligations for the planning, acquisition, establishment, development, construction, or renovation are outstanding.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 911 (H.B. 167), Sec. 1, eff. June 18, 2005.

Acts 2015, 84th Leg., R.S., Ch. 874 (H.B. 3186), Sec. 2, eff. June 18, 2015.

Acts 2021, 87th Leg., R.S., Ch. 661 (H.B. 1554), Sec. 1, eff. June 15, 2021.

Sec. 377.073. BONDS AND OTHER OBLIGATIONS. (a) A district may issue bonds, including revenue bonds and refunding bonds, or other obligations to pay the costs of a development project.

(b) The bonds or other obligations and the proceedings authorizing the bonds or other obligations shall be submitted to the attorney general for review and approval as required by Chapter 1202, Government Code.

(c) The bonds or other obligations must be payable from and secured by the revenues of the district.

(d) The bonds or other obligations may mature serially or otherwise not more than 30 years from their date of issuance.

(e) The bonds or other obligations are not a debt of and do not create a claim for payment against the revenue or property of the district other than a development project for which the bonds are

issued.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.339, eff. Sept. 1, 2001.

Sec. 377.074. PUBLIC PURPOSE OF PROJECT. (a) The legislature finds for all constitutional and statutory purposes that a development project is owned, used, and held for public purposes by the district.

(b) Section 25.07(a), Tax Code, does not apply to a leasehold or other possessory interest granted by the district while the district owns the development project.

(c) The development project is exempt from taxation under Section 11.11, Tax Code, while the district owns the project.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER E. SALES AND USE TAX

Sec. 377.101. SALES AND USE TAX. (a) A district by order may impose a sales and use tax under this subchapter.

(b) A district may impose a tax under this subchapter only if the tax is approved at an election held under Section 377.021.

(c) A district may not adopt a sales and use tax under this subchapter if the adoption of the tax under this subchapter would result in a combined tax rate of all local sales and use taxes of more than two percent in any location in the district.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

Sec. 377.102. TAX CODE APPLICABLE. (a) Chapter 323, Tax Code, governs the imposition, computation, administration, collection, and remittance of a tax authorized under this subchapter except as inconsistent with this subchapter.

(b) Section 323.101(b), Tax Code, does not apply to the tax authorized by this subchapter.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

Sec. 377.103. TAX RATE. The rate of a tax adopted under this subchapter must be one-eighth, one-fourth, three-eighths, or one-half of one percent.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

Sec. 377.104. REPEAL OR RATE CHANGE. (a) A district that has adopted a sales and use tax under this subchapter may by order and subject to Section 377.101(c), change the rate of the tax or repeal the tax if the change or repeal is approved by a majority of the registered voters of that district voting at an election called and held for that purpose.

(b) The tax may be changed under Subsection (a) in one or more increments of one-eighth of one percent to a maximum of one-half of one percent.

(c) The ballot for an election to change the tax shall be printed to permit voting for or against the proposition: "The adoption of a sales and use tax at the rate of _____ of one percent (insert one-fourth, three-eighths, or one-half, as appropriate)."

(d) The ballot for the election to repeal the tax shall be printed to permit voting for or against the proposition: "The repeal of the sales and use tax for financing development projects in the _____ Municipal Development District (insert name of district)."

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

Sec. 377.105. IMPOSITION OF TAX. (a) If the district adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items in the district at the rate approved at the election.

(b) There is also imposed an excise tax on the use, storage, or other consumption in the district of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective in the district. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sale price of the tangible personal property.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

Sec. 377.106. EFFECTIVE DATE OF TAX. Except as provided by Section 377.107, the adoption of the tax, the change of the tax rate, or the repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date on which the comptroller receives a notice of the results of the election adopting, changing, or repealing the tax.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

Sec. 377.107. COLLECTION OF TAX TO PAY BONDS OR OTHER OBLIGATIONS. (a) If the district votes to repeal the sales and use tax under Section 377.104, and the district had issued bonds or incurred other obligations secured by the tax before the date of the election, the district shall continue to collect the tax until the bonds or other obligations are paid.

(b) The district shall immediately notify the comptroller when the bonds or other obligations have been paid.

(c) The repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date on which the comptroller receives the notice under Subsection (b).

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

Sec. 377.108. DEPOSIT OF TAX REVENUES. Revenue from the tax imposed under this subchapter shall be deposited in the development project fund of the district imposing the tax.

Added by Acts 1997, 75th Leg., ch. 529, Sec. 1, eff. Sept. 1, 1997.

CHAPTER 378. NEIGHBORHOOD EMPOWERMENT ZONE

Sec. 378.001. DEFINITION. In this chapter, "zone" means a neighborhood empowerment zone created by a municipality under this chapter.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.002. CREATION OF ZONE. A municipality may create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:

(1) the creation of affordable housing, including manufactured housing, in the zone;

(2) an increase in economic development in the zone;

(3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or

(4) the rehabilitation of affordable housing in the zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.003. ADOPTION OF ZONE. (a) A municipality may create a zone if the governing body of the municipality adopts a resolution containing:

(1) the determination described by Section 378.002;

(2) a description of the boundaries of the zone;

(3) a finding by the governing body that the creation of the zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the municipality; and

(4) a finding by the governing body that the creation of the zone satisfies the requirements of Section 312.202, Tax Code.

(b) A municipality may create more than one zone and may include an area in more than one zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.004. MUNICIPAL POWERS. In addition to other powers that a municipality may exercise, a municipality may:

(1) waive or adopt fees related to the construction of buildings in the zone, including fees related to the inspection of buildings and impact fees;

(2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for refunds of municipal sales tax on sales made in the zone;

(3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section 312.204, Tax Code; and

(4) set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 5, eff. Sept. 1, 2001.

CHAPTER 379. NORTH AMERICAN FREE TRADE AGREEMENT IMPACT ZONE

Sec. 379.001. DEFINITION. In this chapter, "zone" means a North American Free Trade Agreement impact zone created by a municipality under this chapter.

Added by Acts 2001, 77th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2001.

Sec. 379.002. CREATION OF ZONE. A municipality may create a zone covering a part of the municipality if the municipality determines the creation of the zone would promote:

(1) business opportunities for local businesses in the zone;

(2) an increase in economic development in the zone; or

(3) employment opportunities for residents of the zone.

Added by Acts 2001, 77th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2001.

Sec. 379.003. ADOPTION OF ZONE. (a) A municipality may create a zone if the governing body of the municipality adopts a resolution containing:

(1) the determination described by Section 379.002;

(2) a description of the boundaries of the zone; and

(3) a finding by the governing body that the creation of the zone satisfies the requirements of Section 312.202, Tax Code.

(b) A municipality may create more than one zone and may

include an area in more than one zone.

Added by Acts 2001, 77th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2001.

Sec. 379.004. ADDITIONAL POWERS. A municipality may:

(1) waive or adopt fees related to the construction of buildings in the zone, including fees related to the inspection of buildings and impact fees;

(2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for sales tax refunds or abatements of municipal sales tax on sales made in the zone;

(3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section 312.204, Tax Code; and

(4) set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to building costs, maintenance, or energy consumption.

Added by Acts 2001, 77th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2001.

Sec. 379.005. NAFTA DISPLACED WORKERS. (a) A business that operates in a zone and receives benefits as a result of a municipality's action under Section 379.004(1), (2), or (3) shall make a good faith effort to hire individuals receiving NAFTA transitional adjustment assistance under 19 U.S.C. Section 2331.

(b) A business described by Subsection (a) shall annually report to the governing body of the municipality on what percentage of the total number of individuals hired by the business during the year covered by the report is comprised of individuals described by Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1150, Sec. 1, eff. Sept. 1, 2001.

CHAPTER 379A. MUNICIPAL DEVELOPMENT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 379A.001. SHORT TITLE. This chapter may be cited as the

Better Jobs Act.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.002. FINDINGS AND PURPOSES. (a) The legislature finds that:

(1) it is an appropriate role for a municipality to foster economic opportunity, job generation, and capital investment by promoting a favorable business climate, preparing the workforce for productive employment, and supporting infrastructure development;

(2) while some municipalities choose to meet that role through the creation of economic development zones and reinvestment zones, the core root of all economic development is a competent and qualified workforce; and

(3) the programs designed to create a competent and qualified workforce are essential both to the economic growth and vitality of many municipalities in this state and to the elimination of unemployment and underemployment in those municipalities.

(b) The programs authorized by this chapter are in the public interest, promote the economic welfare of this state, and serve the state public purpose of developing and diversifying the economy of this state and eliminating unemployment and underemployment in this state.

(c) This chapter shall be liberally construed in conformity with the findings and purposes stated in this section.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.003. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of a municipal development corporation.

(2) "Corporation" means a municipal development corporation created under this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.004. APPLICATION OF NON-PROFIT CORPORATION ACT. A corporation created under this chapter is governed by the Texas Non-

Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), except to the extent inconsistent with this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

SUBCHAPTER B. CREATION OF CORPORATION

Sec. 379A.011. CREATION. The governing body of a municipality may create a municipal development corporation under this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.012. ARTICLES OF INCORPORATION. The articles of incorporation of the corporation must state that the corporation is governed by this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.013. NUMBER OF CORPORATIONS. A municipality may not create more than one corporation under this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.014. ADOPTION AND APPROVAL OF BYLAWS. The initial bylaws of a corporation shall be adopted by its board of directors and approved by resolution of the governing body of the municipality that created the corporation, and any subsequent changes made to the bylaws must be approved by the governing body of the municipality that created the corporation.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.015. PERFORMANCE REVIEW AND ASSESSMENT. The governing body of the municipality that creates the corporation shall undertake a performance review and assessment of the corporation once every five years. Based on the performance review and assessment, the governing body of the municipality shall issue a finding of

whether the corporation is satisfying the objectives set forth in this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 379A.021. COMPOSITION AND APPOINTMENT OF BOARD. (a) Except as provided by Subsection (g), the corporation is governed by a board of 5, 7, 9, 11, 13, or 15 directors, as determined by the governing body of the municipality that created the corporation. The number of directors may not exceed the number of members, including the mayor, constituting the governing body of the municipality.

(b) The governing body of the municipality that created the corporation shall appoint the members of the board.

(c) Directors serve staggered two-year terms, with as near as possible to one-half of the members' terms expiring each year. A director serves at the will of the governing body of the municipality that created the corporation. Successor directors are appointed in the same manner as the original appointees.

(d) Each director of a corporation created by a municipality that has a population of 20,000 or more must be a resident of the municipality. Each director of a corporation created by a municipality that has a population of less than 20,000 must be a resident of the municipality or the county in which the major part of the area of the municipality is located.

(e) A person is disqualified from serving as a director if the person is an employee, officer, or member of the governing body of the municipality that created the corporation.

(f) A director may not have a personal interest in a contract executed by the corporation.

(g) In a municipality that has a population of more than one million and that creates a corporation under this chapter, the board of the corporation is composed of persons appointed to the board as required by this subsection. The governing body of the municipality shall appoint one director to the board of the corporation from each district that elects a member to the governing body of the municipality.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.022. COMPENSATION. A board member is not entitled to compensation, but is entitled to reimbursement for actual and necessary expenses incurred in serving as a director.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.023. MEETINGS. The board shall conduct its meetings in the municipality that created the corporation.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.024. OFFICERS. The board shall appoint from its members a presiding officer, a secretary, and other officers of the corporation that the governing body of the municipality that created the corporation considers necessary.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.025. ADOPTION AND APPROVAL OF BUDGET; REVIEW OF CORPORATE FINANCES. (a) The board shall prepare an annual budget for the corporation. To be effective, the budget must be approved by the board and presented to and approved by the governing body of the municipality that created the corporation. The corporation may not make any expenditure authorized by this chapter until the budget has been approved as provided by this section. An amendment of the budget must be approved in the same manner as the budget.

(b) The governing body of the municipality that created the corporation may amend the corporation's budget with the approval of at least two-thirds of the members of the governing body.

(c) The budget presented to the governing body of the municipality that created the corporation must provide a detailed description of the proposed expenditures for the corporation's fiscal year, including expenditures for each program authorized by Subchapter D.

(d) The board shall annually prepare and present financial statements from the preceding fiscal year to the governing body of the municipality that created the corporation.

(e) The governing body of the municipality that created the

corporation is entitled, at all times, to access to the books and records of the corporation.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

SUBCHAPTER D. POWERS OF CORPORATION

Sec. 379A.051. PROGRAMS. (a) A corporation may develop and implement programs for:

(1) job training, including long-term job training and in-training support service grants;

(2) early childhood development that prepare each child to enter school and make each child ready to learn after completing the program and that provide educational services that must include services designed to enable a child to:

(A) develop phonemic, print, and numeracy awareness, including the ability to:

(i) recognize that letters of the alphabet are a special category of visual graphics that can be individually named;

(ii) recognize a word as a unit of print;

(iii) identify at least 10 letters of the alphabet; and

(iv) associate sounds with written words;

(B) understand and use language to communicate for various purposes;

(C) understand and use an increasingly complex and varied vocabulary;

(D) develop and demonstrate an appreciation of books; and

(E) progress toward mastery of the English language, if the child's primary language is a language other than English;

(3) after-school programs for primary and secondary schools;

(4) the provision of funding to accredited postsecondary educational institutions, including public and private junior colleges, public and private institutions of higher education, and public and private technical institutions, to be used to award scholarships;

(5) the promotion of literacy; and

(6) any other undertaking that the board determines will

directly facilitate the development of a skilled workforce.

(b) A corporation may accept donated property, may develop or use land, buildings, equipment, facilities, and other improvements in connection with a program described by Subsection (a), or may dispose of property or an interest in property under terms determined by the corporation.

(c) A municipality may contract with a community nonprofit organization that sponsors long-term job training and related support services.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.052. GENERAL POWERS OF CORPORATION. The corporation may:

(1) own or operate a program authorized by this chapter;

(2) perform any act necessary to the full exercise of the corporation's powers;

(3) accept a grant or loan from a:

(A) department or agency of the United States;

(B) department, agency, or political subdivision of this state; or

(C) public or private person;

(4) employ any necessary personnel, who shall be employees of the municipality;

(5) adopt rules to govern the operation of the corporation and its employees and property; and

(6) contract or enter into a memorandum of understanding or a similar agreement with a public or private person, including local workforce development boards or any political subdivision, in connection with a program authorized by this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.053. NATURE OF CORPORATE PROPERTY. (a) The legislature finds for all constitutional and statutory purposes that the corporation owns, uses, and holds its property for public purposes.

(b) Section 25.07(a), Tax Code, does not apply to a leasehold or other possessory interest granted by the corporation.

(c) Property owned by the corporation is exempt from taxation under Section 11.11, Tax Code, while the corporation owns the property.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.054. OPEN RECORDS AND MEETINGS. The board is treated as a governmental body for the purposes of Chapters 551 and 552, Government Code.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.055. ADMINISTRATION OF SCHOLARSHIP FUND. (a) In providing funds to an accredited postsecondary educational institution to be used for scholarships as authorized by Section 379A.051, the corporation by agreement with the institution shall ensure that:

(1) the funds are distributed to individuals as scholarships connected with the institution; and

(2) no more than a maximum amount, as set by the corporation, of the funds are spent on administering the award of the scholarship.

(b) An accredited postsecondary educational institution receiving the funds for scholarships shall develop, in consultation with the corporation, a plan for awarding scholarships that will have the goal of having an eventual beneficial effect on the economic growth and vitality of and the elimination of unemployment and underemployment in the municipality that created the corporation and that will ensure that the recipient:

(1) meets financial need requirements as defined by the corporation;

(2) is enrolled in an undergraduate degree or certificate program;

(3) is enrolled for at least three-fourths of a full course load for an undergraduate student, as determined by the corporation;

(4) makes satisfactory academic progress toward an undergraduate degree or certificate; and

(5) complies with any additional nonacademic requirement adopted by the corporation.

(c) If the municipality that created the corporation has established an education partnership composed of community-based organizations, school districts, public or private sector entities, or postsecondary institutions for the purpose of distributing scholarships to students of local schools, the corporation may provide funds to the education partnership to enable the partnership to award scholarships to directly facilitate the development of a skilled workforce.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

SUBCHAPTER E. SALES AND USE TAX

Sec. 379A.081. SALES AND USE TAX. (a) A municipality may levy a sales and use tax for the benefit of the corporation if the tax is authorized by a majority of the voters of the municipality voting at an election called for that purpose.

(b) The ballot for an election to impose the tax shall be printed to permit voting for or against the proposition: "Adoption of a sales and use tax at the rate of _____ of one percent (insert one-eighth, one-fourth, three-eighths, or one-half, as appropriate) for the purpose of financing authorized programs of the _____ Municipal Development Corporation (insert the name of the corporation)."

(c) The adoption of the tax may be limited on the ballot to any specific program, or the tax may be adopted with general language permitting the use of the tax for any purposes authorized by this chapter.

(d) If a sales and use tax is levied, it may be adopted for a maximum of 20 years, but may then be reauthorized, subject to a payment of indebtedness. The tax may be authorized for a shorter period of time or limited to the time necessary to pay any indebtedness.

(e) The rate of a tax adopted under this section must be one-eighth, one-fourth, three-eighths, or one-half of one percent. A municipality may not adopt a sales and use tax under this chapter if the adoption of the tax under this chapter would result in a combined tax rate of all local sales and use taxes of more than two percent in any location in the municipality.

(f) Chapter 321, Tax Code, governs a municipality's imposition,

computation, administration, collection, and remittance of a tax authorized by this section except as inconsistent with this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.082. ELECTION TO CHANGE RATE OF TAX. (a) A municipality that has adopted a sales and use tax under this chapter at a rate of less than one-half of one percent may increase or decrease the rate of the tax if the increase or decrease is approved by a majority of the voters of the municipality voting at an election called and held for that purpose.

(b) The tax may be increased or decreased under this section in one or more increments of one-eighth of one percent, but a maximum of one-half of one percent is permitted.

(c) The ballot for an election to increase or decrease the tax shall be printed to permit voting for or against the proposition: "The _____ (increase or decrease, as appropriate) of a sales and use tax to the rate of ____ of one percent (insert one-eighth, one-fourth, three-eighths, or one-half, as appropriate) for the purpose of financing authorized programs of the _____ Municipal Development Corporation (insert the name of the corporation)."

(d) Notwithstanding Subsections (a)-(c), in a municipality that is located within the territorial limits of a regional transportation authority and was added to the authority under Section 452.6025, Transportation Code, a sales and use tax imposed by the municipality under this subchapter is subject to reduction in the manner prescribed by that section.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001. Amended by Acts 2003, 78th Leg., ch. 915, Sec. 5, eff. June 20, 2003.

Sec. 379A.083. IMPOSITION OF TAX. (a) If the municipality adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items in the municipality at the rate approved at the election, and an excise tax is imposed on the use, storage, or other consumption in the municipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective in the municipality. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is

applied to the sale price of the tangible personal property.

(b) The adoption of the tax or the change of the tax rate takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the comptroller receives a notice of the results of the election adopting, increasing, or decreasing the tax.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

CHAPTER 379B. DEFENSE BASE DEVELOPMENT AUTHORITIES

Sec. 379B.001. DEFINITIONS. In this chapter:

(1) "Authority" means a defense base development authority established under this chapter.

(2) "Base efficiency project" means a demonstration project between a municipality and the United States Department of Defense to evaluate and demonstrate methods for more efficient operation of military installations through improved capital asset management and greater reliance on the public or private sector for less costly base support services and to improve mission effectiveness and reduce the cost of providing quality installation support at military facilities under Pub. L. No. 106-246 or other applicable federal laws.

(3) "Base property" means land inside the boundaries of the defense base for which the authority is established and improvements and personal property on that land.

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

(5) "Bond" means an interest-bearing obligation issued by an authority under this chapter, including a bond, certificate, note, or other evidence of indebtedness.

(6) "Defense base" means a military installation or facility that is:

(A) closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) and its subsequent amendments; or

(B) the subject of a base efficiency project.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 257, Sec. 1, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.001 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.0012. APPLICATION OF OTHER LAW. (a) In this section, "qualifying project" means any real estate project involving the construction of:

(1) tenant finish-out or construction of a build-to-suit facility for a tenant who, through the execution of a lease with an authority, pays for or reimburses the authority for the cost of the improvements;

(2) infrastructure improvements, including roads, driveways, or utility extensions, made in connection with the sale or lease of property owned by the authority and for which the proceeds of the sale or the lease are used to reimburse the authority for the infrastructure improvements; or

(3) an income-producing facility that generates revenue for the authority and that is constructed by a private developer with special expertise in development.

(b) Chapters 2267 and 2269, Government Code, do not apply to a qualifying project of an authority.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1294 (H.B. 2388), Sec. 1(b), eff. June 14, 2013.

Sec. 379B.002. ESTABLISHMENT; SUCCESSOR. (a) A municipality by resolution may establish an authority. The resolution must include a legal description of the base property. On adoption of the resolution, the authority is established as a special district and political subdivision of this state, with a boundary coterminous with the base property described in the resolution.

(b) When establishing an authority, the municipality may designate the authority in the municipality's resolution to be the successor in interest to a nonprofit corporation organized under the Development Corporation Act (Subtitle C1, Title 12). On adoption of the resolution, the corporation is dissolved and the authority succeeds to all rights and liabilities of that corporation.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Renumbered from Local Government Code Sec. 378.002 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.24, eff. April 1, 2009.

Sec. 379B.003. PURPOSE AND NATURE OF AUTHORITY. (a) An authority is created to:

(1) accept title to or operate under a lease from the United States or any other person all or a part of the base property and areas around the base property and engage in the economic development of the base property and areas around the base property; or

(2) carry out a base efficiency project.

(b) An authority created under Subsection (a)(2) may not operate a defense base that has been closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) and its subsequent amendments.

(c) An authority exercises public and essential governmental functions.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 257, Sec. 2, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.003 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.004. POWERS AND DUTIES OF AUTHORITY. (a) An authority may exercise power necessary or convenient to carry out a purpose of this chapter, including the power to:

(1) adopt an official seal, or alter it;

(2) adopt rules;

(3) enter into a contract or incur a liability;

(4) acquire and dispose of money;

(5) select a depository;

(6) establish a system of accounts for the authority;

(7) invest funds in accordance with Chapter 2256, Government Code;

(8) set the fiscal year for the authority;

(9) adopt an annual operating budget for major expenditures before the beginning of the fiscal year;

(10) borrow money or issue a bond in an amount that does not exceed the maximum amount set by the board;

(11) loan money;

(12) acquire, lease, lease-purchase, convey, grant a mortgage on, or otherwise dispose of a property right, including a right regarding base property;

(13) lease property located on the base property to a person to effect the purposes of this chapter;

(14) request and accept a donation, grant, guaranty, or loan from any source permitted by law;

(15) operate and maintain an office;

(16) charge for the use, lease, or sale of an open space or a facility;

(17) exercise a power granted to a municipality by Chapter 380;

(18) authorize by resolution the incorporation of a nonprofit airport facility financing corporation as provided and authorized by Subchapter E, Chapter 22, Transportation Code, to provide financing to pay the costs, including interest, and reserves for the costs of an airport facility authorized by that chapter and for other purposes set forth in the articles of incorporation;

(19) exercise the powers granted to a local government for the financing of facilities to be located on airport property, including those set out in Chapter 22, Transportation Code, consistent with the requirements and the purposes of Section 52-a, Article III, Texas Constitution;

(20) lease, own, and operate an airport and exercise the powers granted to municipalities and counties by Chapter 22, Transportation Code;

(21) lease, own, and operate port facilities for air, trucking, and rail transportation;

(22) provide security for port functions, facilities, and operations;

(23) cooperate with and participate in programs and security efforts of this state and the federal Department of Homeland Security; and

(24) participate as a member or partner of a limited liability company, a limited liability partnership, or other entity organized to finance a project designated as a redevelopment project under Section 379B.009.

(b) An authority shall establish and maintain an office and agent registered with the secretary of state.

(c) An authority shall endeavor to raise revenue sufficient to

pay its debts.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1516, Sec. 1, eff. June 17, 2001. Renumbered from Local Government Code Sec. 378.004 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 873 (S.B. 1090), Sec. 1, eff. September 1, 2005.
Acts 2011, 82nd Leg., R.S., Ch. 702 (H.B. 447), Sec. 1, eff. September 1, 2011.
Acts 2017, 85th Leg., R.S., Ch. 866 (H.B. 2761), Sec. 1, eff. June 15, 2017.

Sec. 379B.0041. INLAND PORT AND TRADE POWERS. (a) The authority may establish and operate an inland port and related port facilities to engage in world trade.

(b) The authority may participate in national and international agreements advancing world trade at the port.

Added by Acts 2007, 80th Leg., R.S., Ch. 1120 (H.B. 3879), Sec. 1, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1382 (S.B. 1237), Sec. 1, eff. September 1, 2007.

Sec. 379B.0042. SERVICES. An authority may charge for a service provided, including:

(1) professional consultation services provided in relation to international trade, planning, land use, or construction;

(2) real estate development services, including an employee licensed under Chapter 1101, Occupations Code, acting as a broker;

(3) support or participation in the acquisition of venture capital to finance the authority's redevelopment project, both inside and outside the authority;

(4) participation in or assistance on a joint venture composed of both public and private entities;

(5) promotion of an activity that creates employment opportunities; and

(6) any other service provided in relation to a project

undertaken by the authority, alone or with others, to fulfill an authority purpose or objective.

Added by Acts 2011, 82nd Leg., R.S., Ch. 702 (H.B. 447), Sec. 2, eff. September 1, 2011.

Sec. 379B.0043. TRANSPORTATION PROJECT. (a) An authority may implement a transportation project:

(1) on the base property; or

(2) outside of the base property to provide access to the base property.

(b) An authority may enter into an agreement with any person, including another governmental entity, to plan, finance, construct, or maintain a project described by Subsection (a).

(c) An authority may construct a building, loading dock, or other facility as part of a transportation project described by Subsection (a)(1).

Added by Acts 2011, 82nd Leg., R.S., Ch. 702 (H.B. 447), Sec. 2, eff. September 1, 2011.

Sec. 379B.0045. EMINENT DOMAIN. (a) An authority or an authority whose subject property is within the territorial limits of a municipality may exercise the power of eminent domain to acquire property in the base property or in an area surrounding the base only in the manner provided by Chapter 21, Property Code.

(b) Before the authority initiates an eminent domain proceeding to acquire property, the board must:

(1) adopt a master development and redevelopment plan for the property in the base property or in an area surrounding the base and incorporate and approve the plan as part of the master plan of the municipality in which the base property is located; and

(2) find, after conducting a public hearing, that:

(A) notice of the hearing was published in a newspaper of general circulation in the municipality in which the base property is located not later than the 15th day before the date of the hearing;

(B) the property lies in a redevelopment project designated under Section 379B.009; and

(C) the use of eminent domain is necessary to acquire the property to carry out the essential objectives of the master development and redevelopment plan as approved by the municipality.

Added by Acts 2003, 78th Leg., ch. 1116, Sec. 1, eff. June 20, 2003. Renumbered from Local Government Code, Section 378.0045 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(67), eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1120 (H.B. 3879), Sec. 2, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1382 (S.B. 1237), Sec. 2, eff. September 1, 2007.

Sec. 379B.0046. EMPLOYMENT OF AUTHORITY PEACE OFFICERS. (a) The board may employ and commission peace officers for the authority to prevent or abate the commission of offenses relating to port functions, facilities, and operations under state or local law.

(b) The jurisdiction of a peace officer commissioned under this section includes the property owned or controlled by the authority.

(c) In a peace officer's jurisdiction, the peace officer has the authority granted by Chapter 14, Code of Criminal Procedure.

Added by Acts 2025, 89th Leg., R.S., Ch. 135 (H.B. 3248), Sec. 1, eff. September 1, 2025.

Sec. 379B.005. SUITS; INDEMNITY. (a) An authority may sue and be sued.

(b) In a suit against an authority, process may be served on the president, vice president, or registered agent.

(c) An authority may not be required to give a bond on an appeal or writ of error taken in a civil case that the authority is prosecuting or defending.

(d) An authority may indemnify an authority employee or board member or a former authority employee or board member for necessary expenses and costs, including attorney's fees, incurred by that person in connection with a claim asserted against that person if:

(1) the claim relates to an act or omission of the person when acting in the scope of the person's board membership or

authority employment; and

(2) the person has not been found liable or guilty on the claim.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Renumbered from Local Government Code Sec. 378.005 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.006. UTILITIES FOR AUTHORITIES CREATED IN POPULOUS MUNICIPALITY. (a) This section applies only to an authority created by a municipality with a population of 50,000 or more.

(b) An authority may accept an electric, gas, potable water, or sanitary sewage utility conveyed by the United States but may not operate it.

(c) An authority shall convey a utility received under Subsection (b) to the municipality that established the authority. The municipality shall pay the authority fair market value for the utility.

(d) If state or federal law prohibits the operation or ownership of the utility by the municipality, the municipality shall convey the utility to an entity that may operate it. The municipality may charge fair market value for the conveyance.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1069, Sec. 1, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.006 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.0065. UTILITIES FOR AUTHORITIES CREATED IN LESS POPULOUS MUNICIPALITY. (a) This section applies only to an authority created by a municipality with a population of less than 50,000.

(b) An authority may own an electric, sewer service, or water supply utility and may sell those utility services to a person who leases real property from the authority.

Added by Acts 2001, 77th Leg., ch. 1069, Sec. 2, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.0065 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.007. BOARD OF DIRECTORS. (a) The board consists of 11 members.

(b) The board is responsible for the management, operation, and control of the authority.

(c) The governing body of the municipality that established the authority shall appoint each board member to a term not exceeding two years.

(d) A vacancy on the board is filled in the same manner as the original appointment.

(e) The municipality may remove a board member by adopting a resolution.

(f) The members of the board shall elect from its membership:

(1) a president and vice president or a chairperson and vice chairperson; and

(2) a secretary and a treasurer.

(f-1) The board by rule may provide for the election of other officers.

(g) A board member serves without compensation but may be reimbursed for a reasonable and necessary expense incurred in the performance of an official duty.

(h) The board shall adopt rules for its proceedings and may employ and compensate persons to carry out the powers and duties of the authority.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1069, Sec. 3, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.007 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 367 (H.B. 1345), Sec. 1, eff. September 1, 2009.

Sec. 379B.0075. ADDITIONAL REQUIREMENTS FOR BOARD OF DIRECTORS CREATED IN LESS POPULOUS MUNICIPALITY. (a) In this section, "county" means the county in which the majority of the municipality that created the authority is located.

(b) This section applies only to an authority created by a

municipality with a population of less than 50,000.

(c) Each board member serves a two-year term and is appointed as follows:

(1) the county shall appoint four members, including a member of the county's governing body;

(2) junior colleges located in whole or in part in the county, if any, jointly shall appoint three members; and

(3) the municipality that established the authority shall appoint:

(A) four members, including a member of the municipality's governing body, if the county in which the authority is located contains a junior college; or

(B) seven members, including a member of the municipality's governing body, if the county in which the authority is located does not contain a junior college.

(d) The entity that appoints a board member may remove a board member by adopting a resolution or order, as appropriate.

(e) Sections 378.007(c) and (e) do not apply to an authority to which this section applies.

Added by Acts 2001, 77th Leg., ch. 1069, Sec. 4, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.0075 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.008. POWERS AND DUTIES OF BOARD. (a) The board of an authority shall, if consistent with the purposes for which the authority was created under Section 378.003:

(1) monitor the proposed closing of the defense base;

(2) manage and operate the defense base transition and development on behalf of the municipality that established the authority;

(3) review options related to the most appropriate use of the defense base;

(4) conduct a study on issues related to the closure, conversion, redevelopment, and future use of the defense base;

(5) formulate, adopt, and implement a plan to convert and redevelop the defense base;

(6) submit the plan to an appropriate agency or agencies of the federal government; and

(7) manage the property used for a base efficiency project.

(b) For the base property and areas adjacent to the base property the board shall:

(1) promote economic development;

(2) attempt to reduce unemployment;

(3) encourage the development of new industry by private businesses; and

(4) encourage financing of projects designated under Section 379B.009.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 257, Sec. 3, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.008 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), 3(34), eff. Sept. 1, 2003.

Sec. 379B.0085. HEARINGS BY TELEPHONE OR SIMILAR MEANS. (a) As an exception to Chapter 551, Government Code, and other law, if the chairperson, president, vice chairperson, or vice president of a board, or chairperson or vice chairperson of a board committee, is physically present at a meeting of the board or committee, any number of the other members of the board or committee may attend the meeting by use of telephone conference call, video conference call, or other similar telecommunication device. This subsection applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a board or committee member to otherwise fully participate in any board or committee meeting. This subsection applies without exception with regard to the subject of the meeting or topics considered by the members.

(b) A meeting held by use of telephone conference call, video conference call, or other similar telecommunication device:

(1) is subject to the notice requirements applicable to other meetings;

(2) must specify in the notice of the meeting the location of the meeting at which the president, vice president, chairperson, or vice chairperson will be physically present;

(3) must be open to the public and audible to the public at the location specified in the notice of the meeting as the location of the meeting at which the president, vice president, chairperson,

or vice chairperson will be physically present; and

(4) must provide two-way audio communication between all board or committee members attending the meeting during the entire meeting, and if the two-way audio communication link with any member attending the meeting is disrupted at any time, the meeting may not continue until the two-way audio communication link is reestablished.

Added by Acts 2007, 80th Leg., R.S., Ch. 1120 (H.B. 3879), Sec. 3, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1382 (S.B. 1237), Sec. 3, eff. September 1, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 367 (H.B. 1345), Sec. 2, eff. September 1, 2009.

Sec. 379B.009. REDEVELOPMENT PROJECTS. (a) The board may designate as a redevelopment project a project that relates to:

(1) the development of base property and the surrounding areas; or

(2) the development of property directly related to the purposes or goals of the authority.

(b) A project designated under Subsection (a) is for a public purpose.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Renumbered from Local Government Code Sec. 378.009 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1120 (H.B. 3879), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1382 (S.B. 1237), Sec. 4, eff. September 1, 2007.

Sec. 379B.010. BONDS. (a) An authority may issue bonds if authorized by board resolution.

(b) A bond issued under this chapter must:

(1) be payable solely from authority revenue;

(2) mature not later than 40 years after its date of issuance; and

(3) state on its face that it is not an obligation of this state or the municipality.

(c) An authority issuing bonds under this section may exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and the execution of credit agreements under Chapter 1371, Government Code.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1516, Sec. 2, eff. June 17, 2001. Renumbered from Local Government Code Sec. 378.010 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 873 (S.B. 1090), Sec. 2, eff. September 1, 2005.

Sec. 379B.011. TAX EXEMPTIONS. (a) An authority's property, income, and operations are exempt from taxes imposed by the state or a political subdivision of the state.

(b) Section 25.07(a), Tax Code, applies to a leasehold or other possessory interest in real property granted by an authority for a project designated under Section 379B.009(a) in the same manner as it applies to a leasehold or other possessory interest in real property constituting a project described by Section 505.161, except for the requirement in Section 505.161 that the voters of the municipality that created the authority have authorized the levy of a sales and use tax for the benefit of the authority.

(c) A commercial aircraft to be used as an instrumentality of commerce that is under construction inside the authority is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02, Tax Code.

(d) Tangible personal property located inside the authority is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02, Tax Code, if the owner demonstrates to the chief appraiser for the appraisal district in which the authority is located that the owner intends to incorporate the property into or attach the property to a commercial aircraft described by Subsection (c).

(e) In this section, "commercial aircraft" means an aircraft under construction that is designed to be used as described by Section 21.05(e), Tax Code.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Renumbered from Local Government Code Sec. 378.011 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), 3(35), eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 873 (S.B. 1090), Sec. 3, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.25, eff. April 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1378 (H.B. 1348), Sec. 1, eff. January 1, 2014.

Sec. 379B.012. DISSOLUTION FOR AUTHORITIES CREATED IN POPULOUS MUNICIPALITY. (a) This section applies only to an authority created by a municipality with a population of 50,000 or more.
(b) The governing body of a municipality that established the authority by resolution may dissolve the authority after all debts or obligations of the authority have been satisfied.
(c) Property of the authority that remains after dissolution is conveyed to the municipality.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1069, Sec. 5, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.012 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.013. DISSOLUTION FOR AUTHORITIES CREATED IN LESS POPULOUS MUNICIPALITY. (a) In this section, "county" means the county in which the majority of the municipality that created the authority is located.
(b) This section applies only to an authority created by a municipality with a population of less than 50,000.
(c) The authority may be dissolved if:
(1) all debts or obligations of the authority have been satisfied; and

(2) the dissolution is authorized by order or resolution of:

(A) the governing body of the municipality that established the authority;

(B) the county; and

(C) each junior college in the county, if the county in which the authority is located contains a junior college.

(d) Property of the authority that remains after dissolution is conveyed to the municipality.

Added by Acts 2001, 77th Leg., ch. 1069, Sec. 6, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.013 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

CHAPTER 379C. URBAN LAND BANK DEMONSTRATION PROGRAM

Sec. 379C.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Demonstration Program Act.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.

Sec. 379C.002. APPLICABILITY. This chapter applies only to home-rule municipalities that:

(1) have a population of 1.18 million or more; and

(2) are located predominantly in a county that has a total area of less than 1,300 square miles.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1085 (H.B. 3447), Sec. 1, eff. September 1, 2013.

Sec. 379C.003. DEFINITIONS. In this chapter:

(1) "Community housing development organization" or "organization" means an organization that:

(A) meets the definition of a community housing development organization in 24 C.F.R. Section 92.2; and

(B) is certified by the municipality as a community housing development organization.

(2) "Land bank" means an entity established or approved by the governing body of a municipality for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

(3) "Low income household" means a household with a gross income of not greater than 115 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(4) "Qualified participating developer" means a developer who meets the requirements of Section 379C.005 and includes a qualified organization under Section 379C.011.

(5) "Urban land bank demonstration plan" or "plan" means a plan adopted by the governing body of a municipality as provided by Section 379C.006.

(6) "Urban land bank demonstration program" or "program" means a program adopted under Section 379C.004.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 5, eff. September 1, 2007.

Sec. 379C.004. URBAN LAND BANK DEMONSTRATION PROGRAM. (a) The governing body of a municipality may adopt an urban land bank demonstration program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for affordable housing development or other purposes as provided by this chapter.

(b) The governing body of a municipality that adopts an urban land bank demonstration program shall establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 721 (H.B. 1289), Sec. 1, eff. June 17, 2015.

Sec. 379C.005. QUALIFIED PARTICIPATING DEVELOPER. To qualify to participate in an urban land bank demonstration program, a developer must:

(1) have built one or more housing units within the three-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank;

(2) have a development plan approved by the municipality for the land bank property; and

(3) meet any other requirements adopted by the municipality in the urban land bank demonstration plan.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1037 (H.B. 2840), Sec. 1, eff. September 1, 2013.

Sec. 379C.006. URBAN LAND BANK DEMONSTRATION PLAN. (a) A municipality that adopts an urban land bank demonstration program shall operate the program in conformance with an urban land bank demonstration plan.

(b) The governing body of a municipality that adopts an urban land bank demonstration program shall adopt a plan annually. The plan may be amended from time to time.

(c) In developing the plan, the municipality shall consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) The plan must include the following:

(1) a list of community housing development organizations eligible to participate in the right of first refusal provided by Section 379C.011;

(2) a list of the parcels of real property that may become eligible for sale to the land bank during the upcoming year;

(3) the municipality's plan for affordable housing development on those parcels of real property; and

(4) the sources and amounts of funding anticipated to be available from the municipality for subsidies for development of affordable housing in the municipality, including any money

specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.

Sec. 379C.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before adopting a plan, a municipality shall hold a public hearing on the proposed plan.

(b) The city manager or the city manager's designee shall provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this chapter are located.

(c) The city manager or the city manager's designee shall make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.

Sec. 379C.008. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a habitable building or buildings or an uninhabitable building or buildings that are occupied as a residence by an owner or tenant who is legally entitled to occupy the building or buildings;

(3) there are delinquent taxes on the property for a total of at least five years; and

(4) the municipality has executed with the other taxing

units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

(a-1) The property may be sold to a land bank, regardless of current zoning, and on development may be zoned for more than one use that must include residential housing in accordance with this chapter, provided that the requirements of Subsection (a) are satisfied.

(b) A sale of property for use in connection with the program is a sale for a public purpose.

(c) If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50, Tax Code.

(d) For any sale of property under this chapter, each person who was a defendant to the judgment, or that person's attorney, shall be given, not later than the 90th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Notice shall be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) After receipt of the notice required by Subsection (d) and before the date of the proposed sale, the owner of the property subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by this chapter.

(f) If the officer charged with the sale receives a written request as provided by Subsection (e), the officer shall sell the property as otherwise provided in Section 34.01, Tax Code.

(g) The owner of the property subject to sale may not receive any proceeds of a sale under this chapter. However, the owner does not have any personal liability for a deficiency of the judgment as a result of a sale under this chapter.

(h) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may be sold to the land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of

the sale.

(i) The deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 6, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1297 (H.B. 2344), Sec. 1, eff. June 19, 2009.

Sec. 379C.009. SUBSEQUENT RESALE BY LAND BANK. (a) Except as provided by Subsection (a-1), each subsequent resale of property acquired by a land bank under this chapter must comply with the conditions of this section.

(a-1) Notwithstanding any other law, this section does not apply to property sold to an eligible adjacent property owner under Section 379C.0106.

(b) Except as provided by Subsection (b-1), the land bank must sell a property to a qualified participating developer within the four-year period following the date of acquisition for the purpose of construction of affordable housing for sale or rent to low income households.

(b-1) Before the completion of the four-year period described by Subsection (b), the land bank may, subject to Section 379C.0106:

(1) transfer property that the land bank determines is not appropriate for residential development to the taxing units described by Subsection (b); or

(2) sell property described by Subdivision (1) to a political subdivision or a nonprofit organization.

(b-2) If after four years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(c) Unless the municipality increases the amount in its plan, the number of properties acquired by a qualified participating developer under this section on which development has not been

completed may not at any given time exceed three times the annual average residential production completed by the qualified participating developer during the preceding two-year period as determined by the municipality.

(d) The deed conveying a property sold by the land bank must include a right of reverter so that if the qualified participating developer does not apply for a construction permit and close on any construction financing within the three-year period following the date of the conveyance of the property from the land bank to the qualified participating developer, the property will revert to the land bank for subsequent resale in accordance with this chapter or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law. If the property is replatted under Section 379C.0107, the right of reverter applies to the entire property as replatted.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1297 (H.B. 2344), Sec. 2, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1037 (H.B. 2840), Sec. 2, eff. September 1, 2013.

Sec. 379C.010. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) The land bank shall impose deed restrictions on property sold to qualified participating developers requiring the development and sale, rental, or lease-purchase of the property to low income households.

(b) Each land bank property sold during any given fiscal year to be developed for sale must be deed restricted for sale to low income households, and:

(1) at least 25 percent of those land bank properties must be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median family income, adjusted for household size; and

(2) not more than 30 percent of those land bank properties may be deed restricted for sale to households with gross household incomes greater than 80 percent of the area median family income, adjusted for household size.

(c) If property is developed for rental housing, the deed restrictions must be for a period of not less than 15 years and must require that:

(1) 100 percent of the rental units be occupied by households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development;

(2) 40 percent of the units be occupied by households with incomes not greater than 50 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development; or

(3) 20 percent of the units be occupied by households with incomes not greater than 30 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(d) The deed restrictions under Subsection (c) must require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. The deed restrictions must also prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), as amended.

(e) Except as otherwise provided by this section, if the deed restrictions imposed under this section are for a term of years, the deed restrictions shall renew automatically.

(f) The land bank or the governing body of the municipality may modify or add to the deed restrictions imposed under this section. Any modifications or additions made by the governing body of the municipality must be adopted by the municipality as part of its plan and must comply with the restrictions set forth in Subsections (b), (c), and (d).

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 7, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1297 (H.B. 2344), Sec. 3, eff. June 19, 2009.

Sec. 379C.0105. LOT EXCHANGE PERMITTED. (a) Notwithstanding Section 379C.010, the land bank may permit a qualified participating developer to exchange a property purchased from the land bank with any other property owned by the developer if:

(1) the developer agrees to construct on the other property affordable housing for low income households as provided by this chapter; and

(2) the other property will be located in:

(A) a planned development incorporating the property originally purchased from the land bank; or

(B) another location as approved by the land bank.

(b) The land bank shall adjust the deed restrictions under Section 379C.010 for each of the properties exchanged by the developer under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1297 (H.B. 2344), Sec. 4, eff. June 19, 2009.

Sec. 379C.0106. PROPERTY DETERMINED TO BE INAPPROPRIATE FOR RESIDENTIAL DEVELOPMENT: RIGHT OF FIRST REFUSAL. (a) In this section, "eligible adjacent property owner" means a person who:

(1) owns property located adjacent to property owned by the land bank; and

(2) satisfies eligibility requirements adopted by the land bank.

(b) Notwithstanding any other right of first refusal granted under this chapter, if the land bank determines that a property owned by the land bank is not appropriate for residential development, the land bank first shall offer the property for sale to an eligible adjacent property owner according to terms and conditions developed by the land bank that are consistent with this chapter.

(c) The land bank shall sell the property to an eligible

adjacent property owner, at whichever value is lower:

(1) the fair market value for the property as determined by the appraisal district in which the property is located; or

(2) the sales price recorded in the annual plan.

(d) Except as provided by Subsection (e), an adjacent property owner that purchases property under this section may not lease, sell, or transfer that property to another person before the third anniversary of the date the adjacent property owner purchased that property from the land bank.

(e) Subsection (d) does not apply to the transfer of property purchased under this section if the transfer:

(1) is made according to a policy adopted by the land bank; and

(2) is made to a family member of the eligible adjacent property owner or occurs as a result of the death of the eligible adjacent property owner.

Added by Acts 2009, 81st Leg., R.S., Ch. 1297 (H.B. 2344), Sec. 5, eff. June 19, 2009.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1037 (H.B. 2840), Sec. 3, eff. September 1, 2013.

Sec. 379C.0107. REPLATTING BY QUALIFIED PARTICIPATING DEVELOPER. The land bank may sell two adjacent properties that are owned by the land bank to a qualified participating developer if:

(1) at least one of the properties is appropriate for residential development; and

(2) the developer agrees to replat the two adjacent properties as one property that is appropriate for residential development.

Added by Acts 2009, 81st Leg., R.S., Ch. 1297 (H.B. 2344), Sec. 6, eff. June 19, 2009.

Sec. 379C.011. RIGHT OF FIRST REFUSAL TO QUALIFIED ORGANIZATIONS. (a) In this section, "qualified organization" means a community housing development organization that:

(1) contains within its designated geographical boundaries

of operation, as set forth in its application for certification filed with and approved by the municipality, a portion of the property that the land bank is offering for sale;

(2) has built at least three single-family homes or duplexes or one multifamily residential dwelling of four or more units in compliance with all applicable building codes within the preceding two-year period and within the organization's designated geographical boundaries of operation; and

(3) within the preceding two-year period has built or rehabilitated housing units within a one-half mile radius of the property that the land bank is offering for sale.

(b) Except as provided by Section 379C.0106, the land bank shall first offer a property for sale to qualified organizations.

(c) Notice must be provided to the qualified organizations by certified mail, return receipt requested.

(d) The municipality shall specify in its plan that the period during which the right of first refusal provided by this section may be exercised by a qualified organization is six months from the date of the deed of conveyance of the property to the land bank.

(e) During the specified period, the land bank may not sell the property to a qualified participating developer other than a qualified organization. If all qualified organizations notify the land bank that they are declining to exercise their right of first refusal during the specified period, or if an offer to purchase the property is not received from a qualified organization during that period, the land bank may sell the property to any other qualified participating developer at the same price that the land bank offered the property to the qualified organizations.

(f) In its plan, the municipality shall establish the amount of additional time, if any, that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(g) If more than one qualified organization expresses an interest in exercising its right of first refusal, the organization that has designated the most geographically compact area encompassing a portion of the property shall be given priority.

(h) In its plan, the municipality may provide for other rights of first refusal for any other nonprofit corporation exempted from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended, provided that the preeminent right of first refusal

is provided to qualified organizations as provided by this section.

(i) The land bank is not required to provide a right of first refusal to qualified organizations under this section if the land bank is selling property that reverted to the land bank under Section 379C.009(d).

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 8, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1297 (H.B. 2344), Sec. 7, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1297 (H.B. 2344), Sec. 8, eff. June 19, 2009.

Sec. 379C.012. OPEN RECORDS AND MEETINGS. The land bank shall comply with the requirements of Chapters 551 and 552, Government Code.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.

Sec. 379C.013. RECORDS; AUDIT; REPORT. (a) The land bank shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The financial transactions of the land bank are subject to audit by the municipality.

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this chapter. The performance report must include:

(1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the

preceding fiscal year;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer or eligible adjacent property owner:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the purchaser;

(D) the purchase price paid; and

(E) if sold to a qualified participating developer:

(i) the maximum incomes allowed for the households by the terms of the sale; and

(ii) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection a copy of the sale settlement statement for each property sold by a qualified participating developer and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk.

(e) The land bank shall provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and shall provide notice of the availability of the performance report for review to the organizations and neighborhood

associations identified by the municipality as serving the neighborhoods in which properties sold to the land bank under this chapter are located.

(f) The land bank and the municipality shall maintain copies of the performance report available for public review.

Added by Acts 2003, 78th Leg., ch. 299, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1297 (H.B. 2344), Sec. 9, eff. June 19, 2009.

Sec. 379C.014. ADDITIONAL AUTHORIZED USE OF LAND BANK PROPERTY. (a) Notwithstanding the other provisions of this chapter, the land bank may acquire and sell to a developer property intended for commercial use.

(b) To qualify to purchase property from the land bank under this section, a developer is not required to be a qualified participating developer but must obtain the municipality's approval of a development plan for the land bank property and must develop the property in accordance with the approved development plan.

(c) A sale under this section within the four-year period following the date of acquisition of the property by the land bank is for a public purpose and satisfies the requirement under Section 379C.009(b) that the property be sold within the four-year period to a qualified participating developer.

(d) The land bank may sell property as provided by this section only after granting any rights of first refusal otherwise required by this chapter, and any completed sale under this section remains subject to the right of reverter provided by Section 379C.009(d).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1037 (H.B. 2840), Sec. 4, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 721 (H.B. 1289), Sec. 2, eff. June 17, 2015.

Sec. 379C.015. LAND USED FOR WORLD EXPOSITION. (a) A municipality may transfer to a land bank land that was part of the site of a world exposition recognized by the Bureau International des

Expositions, subject to any deed restrictions the municipality adopts, after public notice and hearing, before January 1, 2014.

(b) Section 253.001(b) does not apply to the sale of land described by Subsection (a) if the remainder of the world exposition site includes dedicated public squares or parks that have a total area of 18 acres or more, which may include an area for which the municipality commits to demolishing any non-park improvements within 48 months after the date of the dedication.

(c) A petition for judicial review of a sale under Subsection (b) must be filed on or before the 60th day after the date the ordinance or resolution authorizing the sale is adopted. A petition filed after that date is barred.

(d) The restrictions and requirements applicable to the sale of land by a land bank under this chapter or any other law do not apply to land sold by a land bank under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1085 (H.B. 3447), Sec. 2, eff. September 1, 2013.
Redesignated from Local Government Code, Section 379C.014 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(40), eff. September 1, 2015.

CHAPTER 379E. URBAN LAND BANK PROGRAM

Sec. 379E.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Program Act.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.002. APPLICABILITY; CONSTRUCTION WITH OTHER LAW. This chapter applies only to a municipality:

(1) to which Chapter 379C or 379H does not apply; and

(2) that has not ever adopted a homestead land bank program under Subchapter E, Chapter 373A.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 2, eff. September 1, 2021.

Sec. 379E.003. DEFINITIONS. In this chapter:

(1) "Affordable" means that the monthly mortgage payment or contract rent does not exceed 30 percent of the applicable median family income for that unit size, in accordance with the income and rent limit rules adopted by the Texas Department of Housing and Community Affairs.

(2) "Community housing development organization" or "organization" means an organization that:

(A) meets the definition of a community housing development organization in 24 C.F.R. Section 92.2; and

(B) is certified by the municipality as a community housing development organization.

(3) "Land bank" means an entity established or approved by the governing body of a municipality for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

(4) "Low income household" means a household with a gross income of not greater than 80 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(5) "Qualified participating developer" means a developer who meets the requirements of Section 379E.005 and includes a qualified organization under Section 379E.011.

(6) "Urban land bank plan" or "plan" means a plan adopted by the governing body of a municipality as provided by Section 379E.006.

(7) "Urban land bank program" or "program" means a program adopted under Section 379E.004.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33,

eff. September 1, 2007.

Sec. 379E.004. URBAN LAND BANK PROGRAM. (a) The governing body of a municipality may adopt an urban land bank program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development as provided by this chapter.

(b) The governing body of a municipality that adopts an urban land bank program shall establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. To qualify to participate in an urban land bank program, a developer must:

(1) have developed three or more housing units within the three-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank;

(2) have a development plan approved by the municipality for the land bank property; and

(3) meet any other requirements adopted by the municipality in the urban land bank plan.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.006. URBAN LAND BANK PLAN. (a) A municipality that adopts an urban land bank program shall operate the program in conformance with an urban land bank plan.

(b) The governing body of a municipality that adopts an urban land bank program shall adopt a plan annually. The plan may be

amended from time to time.

(c) In developing the plan, the municipality shall consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) The plan must include the following:

(1) a list of community housing development organizations eligible to participate in the right of first refusal provided by Section 379E.011;

(2) a list of the parcels of real property that may become eligible for sale to the land bank during the next year;

(3) the municipality's plan for affordable housing development on those parcels of real property; and

(4) the sources and amounts of money anticipated to be available from the municipality for subsidies for development of affordable housing in the municipality, including any money specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before adopting a plan, a municipality shall hold a public hearing on the proposed plan.

(b) The city manager or the city manager's designee shall provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this chapter are located.

(c) The city manager or the city manager's designee shall make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12,

eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.008. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a building or buildings;

(3) there are delinquent taxes on the property for a total of at least five years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

(b) A sale of property for use in connection with the program is a sale for a public purpose.

(c) If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50, Tax Code.

(d) For any sale of property under this chapter, each person who was a defendant to the judgment, or that person's attorney, shall be given, not later than the 90th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Notice must be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) After receipt of the notice required by Subsection (d) and before the date of the proposed sale, the owner of the property

subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by this chapter.

(f) If the officer charged with the sale receives a written request as provided by Subsection (e), the officer shall sell the property as otherwise provided in Section 34.01, Tax Code.

(g) The owner of the property subject to sale may not receive any proceeds of a sale under this chapter. However, the owner does not have any personal liability for a deficiency of the judgment as a result of a sale under this chapter.

(h) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may be sold to the land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(i) The deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each subsequent resale of property acquired by a land bank under this chapter must comply with the conditions of this section.

(b) Within the three-year period following the date of acquisition, the land bank must sell a property to a qualified participating developer for the purpose of construction of affordable housing for sale or rent to low income households. If after three years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(c) Unless the municipality increases the amount in its plan,

the number of properties acquired by a qualified participating developer under this section on which development has not been completed may not at any time exceed three times the annual average residential production completed by the qualified participating developer during the preceding two-year period as determined by the municipality.

(d) The deed conveying a property sold by the land bank must include a right of reverter so that, if the qualified participating developer does not apply for a construction permit and close on any construction financing within the two-year period following the date of the conveyance of the property from the land bank to the qualified participating developer, the property will revert to the land bank for subsequent resale to another qualified participating developer or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.010. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) The land bank shall impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low income households.

(b) At least 25 percent of the land bank properties sold during any given fiscal year to be developed for sale shall be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(c) If property is developed for rental housing, the deed restrictions must be for a period of not less than 20 years and must require that:

(1) 100 percent of the rental units be occupied by and affordable to households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which

the municipality is located, as determined annually by the United States Department of Housing and Urban Development;

(2) 40 percent of the units be occupied by and affordable to households with incomes not greater than 50 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development; or

(3) 20 percent of the units be occupied by and affordable to households with incomes not greater than 30 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(d) The deed restrictions under Subsection (c) must require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. The deed restrictions must also prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), as amended.

(e) Except as otherwise provided by this section, if the deed restrictions imposed under this section are for a term of years, the deed restrictions shall renew automatically.

(f) The land bank or the governing body of the municipality may modify or add to the deed restrictions imposed under this section. Any modifications or additions made by the governing body of the municipality must be adopted by the municipality as part of its plan and must comply with the restrictions set forth in Subsections (b), (c), and (d).

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.011. RIGHT OF FIRST REFUSAL. (a) In this section, "qualified organization" means a community housing development

organization that:

(1) contains within its designated geographical boundaries of operation, as set forth in its application for certification filed with and approved by the municipality, a portion of the property that the land bank is offering for sale;

(2) has built at least three single-family homes or duplexes or one multifamily residential dwelling of four or more units in compliance with all applicable building codes within the preceding two-year period and within the organization's designated geographical boundaries of operation; and

(3) within the preceding three-year period has developed or rehabilitated housing units within a two-mile radius of the property that the land bank is offering for sale.

(b) The land bank shall first offer a property for sale to qualified organizations.

(c) Notice must be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which a right of first refusal may be exercised.

(d) The municipality shall specify in its plan the period during which the right of first refusal provided by this section may be exercised by a qualified organization. That period must be at least nine months but not more than 26 months from the date of the deed of conveyance of the property to the land bank.

(e) If the land bank conveys the property to a qualified organization before the expiration of the period specified by the municipality under Subsection (d), the interlocal agreement executed under Section 379E.008(a)(4) must provide tax abatement for the property until the expiration of that period.

(f) During the specified period, the land bank may not sell the property to a qualified participating developer other than a qualified organization. If all qualified organizations notify the land bank that they are declining to exercise their right of first refusal during the specified period, or if an offer to purchase the property is not received from a qualified organization during that period, the land bank may sell the property to any other qualified participating developer at the same price that the land bank offered the property to the qualified organizations.

(g) In its plan, the municipality shall establish the amount of additional time, if any, that a property may be held in the land bank

once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(h) If more than one qualified organization expresses an interest in exercising its right of first refusal, the organization that has designated the most geographically compact area encompassing a portion of the property shall be given priority.

(i) In its plan, the municipality may provide for other rights of first refusal for any other nonprofit corporation exempted from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended, provided that the preeminent right of first refusal is provided to qualified organizations as provided by this section.

(j) The land bank is not required to provide a right of first refusal to qualified organizations under this section if the land bank is selling property that reverted to the land bank under Section 379E.009(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.012. OPEN RECORDS AND MEETINGS. The land bank shall comply with the requirements of Chapters 551 and 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

Sec. 379E.013. RECORDS; AUDIT; REPORT. (a) The land bank shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The

financial transactions of the land bank are subject to audit by the municipality.

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this chapter. The performance report must include:

(1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the preceding fiscal year;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the developer;

(D) the purchase price paid by the developer;

(E) the maximum incomes allowed for the households by the terms of the sale; and

(F) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection a copy of the sale settlement statement for each property sold by a

qualified participating developer and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk.

(e) The land bank shall provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and shall provide notice of the availability of the performance report for review to the organizations and neighborhood associations identified by the municipality as serving the neighborhoods in which properties sold to the land bank under this chapter are located.

(f) The land bank and the municipality shall maintain copies of the performance report available for public review.

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 12, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 33, eff. September 1, 2007.

CHAPTER 379H. URBAN LAND BANK PROGRAM IN MUNICIPALITY WITH POPULATION OF TWO MILLION OR MORE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 379H.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Program for a Municipality with a Population of Two Million or More.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.002. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality with a population of two million or more.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.003. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of a land bank.

(2) "Land bank" means an entity established or approved by the governing body of a municipality under this chapter.

(3) "Non-qualifying municipality" means a municipality to which this chapter does not apply and that is located in the same county in which a municipality to which this chapter does apply is predominantly located.

(4) "Real property" means land, land under water, and any structure, easement, air rights, franchise, or incorporeal hereditament, every estate, interest, and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise, and any fixture or improvement located thereon.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.004. APPLICABILITY OF OTHER LAW. A land bank created under this chapter:

(1) is:

(A) a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code;

(B) a local government corporation, as defined by Section 431.003, Transportation Code; and

(C) a public nonprofit corporation that has and may exercise all of the rights, powers, privileges, authority, and functions given by the general laws of this state to nonprofit corporations in this state;

(2) is not:

(A) a program created or operating under Chapter 373 or 374; or

(B) a housing finance corporation created under Chapter 394; and

(3) must comply with the requirements of Chapters 551 and 552, Government Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.005. PURPOSE. A land bank created under this chapter exists for the purpose of acquiring, managing, and disposing of vacant, abandoned, deteriorated, non-revenue generating, and non-tax

producing properties and converting those properties to productive uses. For purposes of this subsection, productive uses of a property include the development of housing that serves a wide range of local needs, including affordable housing, long-term affordable housing, workforce housing, public service housing, mixed-income housing, community-based economic development, food desert solutions, parks and recreation, flood reduction and storm resiliency, and other uses necessary and appropriate to return properties to the tax rolls, stabilize communities, improve living conditions, and protect against the displacement of residents of the municipality served by the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.006. CONSTRUCTION. This chapter shall be construed liberally to carry out the intended purposes as a complete and independent authorization for the performance of each and every act and thing authorized by this chapter, and all powers granted shall be broadly interpreted to carry out the intended purposes and not as a limitation of powers. Except as otherwise provided by this chapter, a land bank, in the exercise of its powers and duties under this chapter and with respect to real property held by the land bank, has the same amount of control as if the land bank represented a private property owner, and the land bank is not subject to restrictions imposed by the charter, ordinances, or resolutions of a local unit of government.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 379H.051. COMPOSITION OF BOARD. The size, membership, composition, and officers of the board of directors of a land bank, and methods of appointment to the board, must be established by the certificate of formation and the bylaws of the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.052. ELIGIBILITY FOR MEMBERSHIP. (a) In this section, "public officer" means an individual who is elected to a municipal office.

(b) A municipal employee is eligible to serve as a member of the board, and notwithstanding any law to the contrary, a public officer is eligible to serve as a member of the board and acceptance of the appointment will neither terminate nor impair service in the public office.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.053. MEETINGS; ATTENDANCE. (a) The board shall meet in regular session according to a schedule adopted by the board.

(b) The board may meet in a special session:

(1) convened by the president of the board in accordance with the bylaws of the board; or

(2) on written notice signed by a majority of the board members.

(c) The presence of a majority of the board's total membership constitutes a quorum for any regular or special session.

(d) The board shall establish rules related to the attendance and participation of members in regular or special meetings of the board. Rules adopted under this subsection may provide for the removal from office of a member for failure to comply with the rules if a majority of the remaining members of the board vote for the removal. Removal under this subsection takes effect the first day of the calendar month following the date of the vote. A person removed under this subsection is ineligible for reappointment to the board unless reappointment is confirmed unanimously by the board.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.054. BOARD ACTIONS. (a) Subject to Subsection (b), actions of the board must be approved by the affirmative vote of a quorum of the board.

(b) Action on the following matters requires approval by a majority of the total membership of the board:

(1) adoption of bylaws or rules for conduct of the business of the land bank for which the board serves;

(2) hiring or firing of any employee or contractor of the land bank for which the board serves;

(3) incurring debt;

(4) adoption or amendment of the annual budget; and

(5) sale, lease, encumbrance, or alienation of or improvements to real or personal property with a value of more than $50,000.

(c) By majority vote, the board may delegate the hiring and firing of employees and contractors to a specific officer or committee of the land bank for which the board serves, under terms and to the extent specified by the board.

(d) A board member may not vote by proxy.

(e) A board member may request a recorded vote on any resolution or action of the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.055. CONFLICT OF INTEREST. (a) A board member or employee of a land bank, or a relative of a member or employee within the first degree of consanguinity or affinity, as determined by Chapter 573, Government Code, may not:

(1) acquire any direct or indirect interest in real property of the land bank, in any real property to be acquired by the land bank, or in any real property to be acquired from the land bank; or

(2) have any direct or indirect interest in any contract or proposed contract for materials or services to be furnished or used by the land bank.

(b) The provisions of the former Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) related to powers, standards of conduct, and interests in contracts apply to the directors and officers of the land bank.

(c) The board may adopt supplemental rules addressing potential conflicts of interest and ethical guidelines for board members and

land bank employees.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.056. COMPENSATION; REIMBURSEMENT. (a) Board members serve without compensation.

(b) The board may reimburse a member for expenses actually incurred in the performance of duties on behalf of the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

SUBCHAPTER C. CREATION, OPERATION, AND DISSOLUTION OF LAND BANK

Sec. 379H.101. CREATION OF LAND BANK. (a) The governing body of a municipality may create a land bank by the adoption of an ordinance approving the land bank's certificate of formation and bylaws.

(b) Approval by the governing body of a municipality of the certificate of formation and bylaws of a corporation created under Chapter 431, Transportation Code, that will serve as a land bank under this chapter is sufficient to create a land bank under this section.

(c) A land bank's certificate of formation and bylaws approved under this section may not be changed or amended unless the governing body of the municipality for which the land bank was created approves the change or amendment by the adoption of an ordinance.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.102. GENERAL POWERS OF LAND BANK. (a) A land bank has all powers necessary to carry out the purposes of this chapter, including the power to:

(1) adopt, amend, and repeal bylaws for the regulation of the land bank's affairs and the conduct of the land bank's business;

(2) sue and be sued in the land bank's own name and plead and be interpleaded in all civil actions, including actions to clear

title to real property of the land bank;

(3) adopt and alter a seal;

(4) borrow funds necessary for the operation of the land bank from private lenders, municipalities, this state, and the federal government;

(5) adopt any policy for procurement that is recognized under state law and permitted for governmental entities, including a policy recognized under Chapters 252 and 271 of this code, Chapter 431, Transportation Code, and Chapters 2254 and 2269, Government Code;

(6) procure insurance or guarantees from this state or the federal government of the payments of any debts or parts of debts incurred by the land bank and pay premiums in connection with those debts;

(7) enter into contracts and other agreements necessary, incidental, or convenient to the performance of the land bank's duties and the exercise of the land bank's powers, including governmental agreements under Subchapter D, Chapter 431, Transportation Code, or interlocal contracts under Section 791.011, Government Code, for the joint exercise of powers under this chapter;

(8) enter into contracts and other agreements with the municipality that created the land bank for the performance of services in accordance with Chapter 311, Tax Code;

(9) make and execute contracts and other instruments necessary or convenient to the exercise of the land bank's powers;

(10) procure insurance against losses in connection with the real property, assets, or activities of the land bank;

(11) invest money of the land bank, at the discretion of the board, in instruments, obligations, securities, or property determined proper by the board and name and use depositories for the land bank's money;

(12) enter into contracts for the management of, collection of rent from, or sale of real property of the land bank;

(13) design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, or otherwise improve real property of the land bank;

(14) set, charge, and collect rents, fees, and charges for the use of real property of the land bank and for services provided by the land bank;

(15) finance by loan, grant, lease, or otherwise refinance,

construct, erect, assemble, purchase, acquire, own, repair, remodel, rehabilitate, modify, maintain, extend, improve, install, sell, equip, expand, add to, operate, or manage real property of the land bank and pay the costs of those activities from the proceeds of loans by persons, corporations, limited or general partnerships, and other entities;

(16) grant or acquire a license, easement, lease, as lessor or lessee, or option with respect to real property of the land bank;

(17) enter into partnerships, joint ventures, and other collaborative relationships with the municipality that created the land bank and other public and private entities for the ownership, management, development, and disposition of real property of the land bank;

(18) make application directly or indirectly to any federal, state, county, or municipal government or agency or to any other public or private source for loans, grants, guarantees, or other financial assistance in furtherance of the land bank's public purpose and accept and use the loans, grants, guarantees, or financial assistance on terms prescribed by that federal, state, county, or municipal government or agency or other source;

(19) as security for the repayment of any notes or other obligations of the land bank, pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any property of the land bank, including real property, fixtures, personal property, revenue, and other funds, and execute any lease, trust indenture, trust agreement, agreement for the sale of the land bank's notes of other obligation, loan agreement, mortgage, security agreement, or other agreement necessary or desirable as determined by the land bank;

(20) hold title to real property for purposes of establishing contracts with public and private nonprofit entities, including long-term lease contracts; and

(21) perform any other appropriate action as necessary to carry out the purposes of this chapter or to comply with a requirement under other law.

(b) A land bank may not:

(1) exercise the power of eminent domain; or

(2) acquire real property outside the geographical boundaries of the municipality that created the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff.

September 1, 2021.

Sec. 379H.103. RESOLUTION OF COMPLEX TITLE QUESTIONS. A land bank may provide assistance and guidance to owners of real property for which there are complex, highly divided fractional interests in the real property because of multigenerational intestate distributions, unknown heirs, and other interested parties for whom accurate information cannot be ascertained.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.104. INTERLOCAL CONTRACTS. (a) A land bank may enter into an interlocal contract under Section 791.011, Government Code, with:

(1) a municipality for a program created by the municipality under Chapter 373 or 374; or

(2) a non-qualifying municipality for the purpose of the land bank conducting land bank activities on behalf of and within the geographical boundaries of the non-qualifying municipality.

(b) Notwithstanding Section 379H.102(b)(2), a land bank may acquire real property within the geographical boundaries of a non-qualifying municipality with which it has entered into an agreement under Subsection (a).

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.105. RECORDS AND REPORTS. (a) A land bank shall keep accurate minutes of the land bank's meetings and shall keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to the land bank's real property.

(b) A land bank shall maintain and make available for public review and inspection:

(1) an inventory of all real property held by the land bank;

(2) a copy of the sale settlement statement for each real property sold or transferred to a third party; and

(3) a copy of the performance report filed under Subsection (e).

(c) Not later than the 90th day after the end of the fiscal year of the municipality that created the land bank, the land bank shall file with the municipality an annual audited financial statement prepared by a certified public accountant.

(d) Financial transactions of a land bank are subject to audit by the municipality that created the land bank.

(e) For purposes of evaluating the effectiveness of a land bank created under this chapter, a land bank shall submit an annual performance report to the municipality that created the land bank not later than November 1 of each year in which the land bank acquires or sells real property in accordance with this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.106. STAFF. (a) A land bank may employ an executive director, counsel and legal staff, technical experts, and other agents and employees, permanent or temporary, that the land bank may require and may determine the qualifications and set the compensation and benefits of each of those persons.

(b) A land bank may enter into contracts and agreements with municipalities for staffing services to be provided to the land bank by those municipalities or for the land bank to provide such staffing services to those municipalities.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.107. ADVISORY COMMITTEE AND NEIGHBORHOOD CONSULTATION. (a) A land bank shall create one or more advisory committees to consult with and advise the land bank on:

(1) properties within the municipality served by the land bank that are imposing the greatest harm on neighborhoods and communities in the municipality;

(2) neighborhood priorities for new uses of those

properties; and

(3) the range of potential transferees of those properties.

(b) As appropriate to the location of the real property of the land bank, advisory committee membership and neighborhood consultations shall include formal and informal neighborhood-specific community associations, residents' associations, faith communities, community development corporations, and anchor institutions.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.108. DISSOLUTION OF LAND BANK. (a) A land bank may be dissolved not earlier than the 60th day after the date an affirmative resolution to dissolve the land bank is approved by two-thirds of the membership of the board and confirmed by resolution of the municipality that created the land bank.

(b) Not less than 60 days before the consideration of a resolution of dissolution by the board, the board shall:

(1) provide to the governing body of the municipality that created the land bank written notice of the board's intent to vote on a resolution for dissolution of the land bank; and

(2) publish the notice in a local newspaper of general circulation.

(c) On dissolution of the land bank, all real property, personal property, and other assets and obligations of the land bank become the assets and obligations of the municipality that created the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

SUBCHAPTER D. ACQUISITION AND DISPOSITION OF PROPERTY

Sec. 379H.151. TAX EXEMPT STATUS OF LAND BANK PROPERTY. The real property of a land bank, including real property held by a land bank under a long-term lease contract with a community land trust, and the land bank's income and operations are exempt as public property used for public purposes from all license fees, recording fees, and all other taxes imposed by this state or by political subdivisions of this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.152. TITLE HELD BY LAND BANK. All real property acquired by a land bank must be held in the name of the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.153. QUIET TITLE ACTIONS. (a) A land bank may file an action to quiet title as to any real property in which the land bank has an interest. For purposes of a quiet title action, the land bank is considered to be the holder of sufficient legal and equitable interests and possessory rights to qualify the land bank as an adequate complainant in the action.

(b) Before filing an action to quiet title, the land bank shall conduct an examination of title to determine the identity of all persons and entities possessing a claim or interest in or to the real property. Service of the complaint to quiet title shall be provided to the interested parties by the following methods:

(1) by first class mail to an identity and address as reasonably ascertainable by an inspection of public records;

(2) in the case of occupied real property, by registered or certified mail addressed to "occupant";

(3) by posting a copy of the notice on the real property;

(4) by publication in a newspaper of general circulation in the municipality in which the property is located; and

(5) by another method the court may order.

(c) As part of the complaint to quiet title, a land bank shall file an affidavit identifying all parties potentially having an interest in the real property and the form of notice provided.

(d) A court hearing an action under this section shall:

(1) schedule a hearing on the complaint not later than the 90th day after the date of the filing of the affidavit under Subsection (c); and

(2) issue a final judgment not later than the 120th day after the date of the filing of the complaint for all matters on which an answer was not filed by an interested party.

(e) A land bank may join in a single complaint to quiet title for one or more parcels of real property.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.154. ACQUISITION OF PROPERTY GENERALLY. (a) A land bank may acquire real property by gift, devise, transfer, exchange, foreclosure, purchase, purchase contracts, lease purchase agreements, installment sales contracts, land contracts, or transfers from a municipality on terms as agreed by the land bank and the municipality, or through any other means on terms and in a manner the land bank considers appropriate.

(b) Notwithstanding any other law to the contrary, a municipality served by a land bank or a non-qualifying municipality that has entered into an interlocal contract with a land bank under Section 379H.104 may transfer to the land bank real property of the municipality or non-qualifying municipality on terms and according to procedures determined by the municipality or non-qualifying municipality.

(c) A land bank may acquire real property from this state, the municipality served by the land bank, the county in which that municipality is located, a governmental entity within the county, the federal government, or an agency or department of the federal government.

(d) A land bank shall maintain all of its real property in accordance with the laws and ordinances of the jurisdiction in which the real property is located.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.155. ACQUISITION OF FORECLOSED OR SEIZED PROPERTY. (a) In this section, "taxing unit" has the meaning assigned by Section 1.04, Tax Code.

(b) A land bank may submit a written bid to acquire real property at a tax sale conducted in accordance with Section 34.01, Tax Code. The bid:

(1) must be in an amount not less than the amount

calculated under Section 34.01(b), Tax Code; and

(2) may be submitted in writing in advance of the auction or tendered in person at the auction.

(c) If the bid submitted under Subsection (b) is the highest bid received at the sale, the land bank:

(1) shall:

(A) pay in cash the amount of the costs and expenses as described by Section 33.48, Tax Code, and any penalties described by Section 33.07 or 33.08, Tax Code; or

(B) remit payment of the amounts described by Paragraph (A) to the selling officer by check or electronic funds transfer not later than the seventh calendar day after the date of the auction; and

(2) is entitled to credit bid that portion of the bid amount consisting of the amount of the taxes, penalties, other than penalties described by Sections 33.07 and 33.08, Tax Code, and interest set forth in the judgment.

(d) A taxing unit that is a party to a judgment of foreclosure for property sold at auction may request that the selling officer bid off the property to the taxing unit in the manner provided by Section 34.01(j), Tax Code, and, if the request is granted, the transfer to the taxing unit prevails over a bid by the land bank if the land bank's bid is the only bid sufficient to satisfy the minimum bid described by Section 34.01(j), Tax Code.

(e) The aggregate amount of all credit bids in a calendar year shall be considered satisfied by the aggregate expenditure in that calendar year of an amount equal to or greater than the credit bid amount, which expenditures are attributable directly and indirectly to maintenance, rehabilitation, construction, demolition, and remediation activities. As to any specific tract of property acquired by the credit bid and transferred by a land bank to a public entity described by Section 379H.158(a), the credit bid shall be considered satisfied by that transfer.

(f) A land bank may submit a written request to a taxing unit at any time for the commencement of tax foreclosure proceedings for delinquent taxes on real property, other than residential real property legally owned and occupied. A land bank may submit a written request to a taxing unit under this subsection for legally occupied residential real property only if the property is five or more years delinquent.

(g) A request submitted under Subsection (f) must include a commitment to tender a bid in the amount specified under Subsection (b). On receipt of the written request, the taxing unit, or the governmental office acting on behalf of the taxing unit, shall commence enforcement proceedings in accordance with Section 33.41, Tax Code.

(h) If there is no private third party bid in an amount more than the bid of the land bank, the real property must be sold to the land bank.

(i) A sale to a land bank under this section is not a sale to a taxing unit under Section 34.01(j) or (p) or 34.21, Tax Code.

(j) A land bank may bid an amount higher than the amount calculated under Section 34.01(b), Tax Code, and if that higher bid amount is the highest successful bid, the land bank shall pay the full amount of the bid in cash.

(k) The deed to a land bank vests good and perfect title in the land bank to the right, title, and interest owned by the defendants included in the foreclosure judgment, including the defendants' right to the use and possession of the property, subject only to the defendants' right of redemption, the terms of a recorded restrictive covenant running with the land that was recorded before January 1 of the year in which the tax lien on the property arose, a recorded lien that arose under that restrictive covenant that was not extinguished by the judgment foreclosing the tax lien, and each easement of record as of the date of the sale that was recorded before January 1 of the year the tax lien arose.

(l) A sale of real property to a land bank under this section:

(1) extinguishes each lien securing payment of the delinquent taxes, penalties, and interest against the property and included in the judgment; and

(2) does not affect the personal liability of any person for those taxes, penalties, and interest included in the judgment that are not satisfied from the proceeds of the sale.

(m) A municipality, and any taxing unit levying property taxes within the geographical jurisdiction of the municipality, may convey tax foreclosed real property owned by the municipality or the taxing unit to the land bank on terms and for an amount of consideration determined by the transferor and the land bank.

(n) A bid submitted by a land bank in accordance with this section is considered a bid for the amount calculated under Section

34.01(b), Tax Code, and received under Section 34.01(j), Tax Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.156. REDEMPTION BY OWNER OF FORECLOSED PROPERTY. (a) The owner of real property sold to a land bank under Section 379H.155 may redeem the property in the manner prescribed for owners of real property sold at a tax sale to a purchaser other than a taxing unit under Section 34.21, Tax Code.

(b) The price to be paid by the owner of real property sold to a land bank under this section to redeem the property shall be in the amounts set forth in Sections 34.21(a) and (e), Tax Code. For the purposes of calculating the price, the bid paid by the land bank shall be the aggregate amount of the land bank's bid as described by Section 379H.155(b).

(c) If the owner of real property sold to a land bank under Section 379H.155 redeems the property by paying to the land bank the full amount required to redeem as set forth in Sections 34.21(a) and (e), Tax Code, the land bank shall:

(1) retain an amount equal to the amount paid in cash by the land bank in accordance with Section 379H.155;

(2) retain any redemption premium and any reasonable costs the land bank may have expended on maintenance or environmental remediation of the property being redeemed; and

(3) remit to the county assessor-collector any remaining amounts to be distributed among the taxing units that were parties to the judgment of foreclosure in an amount equal to the proportion of each taxing unit's taxes, penalties, and interest due in accordance with the judgment of foreclosure.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.157. DISPOSITION OF PROPERTY GENERALLY. (a) A land bank may convey, exchange, sell, transfer, lease as lessor, grant, release and demise, pledge, or hypothecate any interest in, on, or to real property of the land bank.

(b) For real property that a land bank holds fee simple title

to, the land bank must convey, exchange, sell, transfer, or otherwise dispose of the fee simple interest in the property not later than the last day of the fifth consecutive year during which the land bank continuously holds the fee simple title. This subsection does not apply to real property that a land bank holds fee simple title to:

(1) that is subject to a long-term lease with:

(A) a nonprofit corporation that is incorporated or holds a certificate of authority under Chapter 22, Business Organizations Code;

(B) a local government corporation, as defined by Section 431.003, Transportation Code; or

(C) a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code;

(2) for which the land bank is required by the municipality that created the land bank or an entity that funds the land bank, either under an agreement with the municipality or entity or to comply with an official action of the municipality or entity, to hold and assemble one or more parcels of real property for a period that is longer than five years for the purpose of fulfilling specific program or funding goals related to creating or developing affordable housing, supporting community-based economic development, creating parks and other public places, or supporting other goals required by the municipality or entity described by this subdivision;

(3) for which a determination has been made by the land bank that the best use of the real property is for flood control or storm water retention or drainage and the real property has not yet been transferred to a public entity such as a flood control district or a municipal parks and recreation department under Section 379H.158; or

(4) that is the subject of an active proceeding in a court of competent jurisdiction or is subject to a court order that conflicts with this subsection.

(c) A municipality may, in the ordinance creating a land bank, require that a particular form of disposition of real property of the land bank, or any disposition of real property located within a specified jurisdiction of the municipality, be subject to specified voting and approval requirements of the board. Unless restricted under this subsection, the board may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance, and all other related documents pertaining

to the conveyance of real property by the land bank.

(d) Subject to Subsection (b), a land bank shall determine the terms, conditions, form, and substance of consideration necessary and appropriate to convey, exchange, sell, transfer, lease as lessor, grant, or mortgage as mortgagor any interest in, on, or to real property of the land bank. Consideration may take the form of monetary payments and secured financial obligations, covenants, and conditions related to the present and future use of the property, deed covenants and limitations, contractual commitments of the transferee, mortgage financing, defeasible fees, and other forms of consideration as determined by the board to be in the best interests of the land bank. The board shall determine and state in the land bank's policies and procedures the general terms for consideration to be received by the land bank for the transfer of real property of the land bank.

(e) The board may authorize in the board's policies governing the disposition of land bank property a program for the disposition of land bank property to owners of contiguous properties.

(f) A municipality may recommend that a land bank created by the municipality, and the land bank may in the land bank's own policies and procedures, establish a hierarchical ranking of priorities for the use of real property conveyed by the land bank, including use for:

(1) production of housing, including affordable housing, long-term affordable housing, workforce housing, public service housing, and mixed-income housing;

(2) community-based economic development, including retail, commercial, and industrial activities;

(3) parks and other purely public spaces and places;

(4) flood reduction, storm water retention and drainage, and storm resiliency;

(5) food desert solutions;

(6) conservation areas; and

(7) other purposes necessary and appropriate to convert properties to the tax rolls, stabilize communities, improve living conditions, and protect against the displacement of residents of the municipality served by the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.158. DISPOSITION OF PROPERTY FOR FLOOD CONTROL AND STORM WATER DRAINAGE AND PLANNING. (a) A land bank may convey to a public entity such as a flood control district or a municipal parks and recreation department real property held by the land bank:

(1) for which the highest and best use is flood control or storm water retention or drainage; and

(2) that, as a result of housing and building code restrictions, flood plain elevations, other local, state, or federal laws, or public or private agreements, conditions, and limitations, is no longer capable of being developed or redeveloped.

(b) The transfer of real property by a land bank under this section may be:

(1) by grant, deed lease, or other conveyance and may include additional limitations, restrictions, and conditions determined by the land bank; and

(2) for nominal consideration, for consideration consisting of contractual commitments, for an exchange of real properties, or for other consideration determined by the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.159. AFFORDABLE HOUSING POLICY. The board of a land bank may adopt a policy requiring that a percentage, as determined by the board based on local needs and available land bank inventory, of residential units constructed on residential real property conveyed by the land bank be deed restricted for housing that is affordable to households with an income of not greater than 80 percent of the area median family income, adjusted for household size, for the municipality, as determined annually by the United States Department of Housing and Urban Development.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

SUBCHAPTER E. FINANCING OF LAND BANK OPERATIONS

Sec. 379H.201. GENERAL FINANCING. (a) A land bank may receive

funding through grants and loans from the municipality that created the land bank, other municipalities, this state, the federal government, and other public or private sources.

(b) A land bank may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments, and for any other asset or activity permitted under this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.202. SALE OF LAND BANK PROPERTY. At the time a land bank sells or otherwise disposes of real property, the proceeds from the sale, if any, shall be allocated to operations and expenses of the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

Sec. 379H.203. COLLECTION OF TAXES ON PROPERTY CONVEYED BY LAND BANK. Not more than 75 percent of the real property taxes the municipality that created the land bank collected on real property, excluding any school district or county ad valorem tax, conveyed by a land bank under the laws of this state shall be remitted to the land bank. The real property taxes of any other taxing unit, as to real property of the land bank, may also be allocated to the land bank in a similar manner under an interlocal agreement between the other taxing unit and the land bank. The specific percentage of those taxes to be remitted shall be established by ordinance, resolution, or interlocal cooperation agreement of the land bank. The allocation of property tax revenue shall begin with the first taxable year following the date of conveyance and shall continue for a period of five years. The funds shall be remitted to the land bank in accordance with the administrative procedures established by the assessor-collector of the county in which the land bank is located. The allocation of property tax revenue may not occur if those taxes have been previously allocated to a tax increment reinvestment zone,

or to secure a debt of the municipality or other taxing unit, unless the municipality or other taxing unit enters into an agreement with the land bank for the remittance of those funds to the land bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 780 (S.B. 1679), Sec. 1, eff. September 1, 2021.

CHAPTER 380. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL PLANNING AND DEVELOPMENT

Sec. 380.001. ECONOMIC DEVELOPMENT PROGRAMS. (a) The governing body of a municipality may establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality. For purposes of this subsection, a municipality includes an area that:

(1) has been annexed by the municipality for limited purposes; or

(2) is in the extraterritorial jurisdiction of the municipality.

(b) The governing body may:

(1) administer a program by the use of municipal personnel;

(2) contract with the federal government, the state, a political subdivision of the state, a nonprofit organization, or any other entity for the administration of a program; and

(3) accept contributions, gifts, or other resources to develop and administer a program.

(c) Any city along the Texas-Mexico border with a population of more than 500,000 may establish not-for-profit corporations and cooperative associations for the purpose of creating and developing an intermodal transportation hub to stimulate economic development. Such intermodal hub may also function as an international intermodal transportation center and may be colocated with or near local, state, or federal facilities and facilities of Mexico in order to fulfill its purpose.

Added by Acts 1989, 71st Leg., ch. 555, Sec. 1, eff. June 14, 1989. Amended by Acts 1999, 76th Leg., ch. 593, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 57 (H.B. 918), Sec. 1, eff. May 17, 2005.

Sec. 380.002. ECONOMIC DEVELOPMENT GRANTS BY CERTAIN MUNICIPALITIES. (a) A home-rule municipality with a population of more than 100,000 may create programs for the grant of public money to any organization exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code for the public purposes of development and diversification of the economy of the state, elimination of unemployment or underemployment in the state, and development or expansion of commerce in the state. The grants must be in furtherance of those public purposes and shall be used by the recipient as determined by the recipient's governing board for programs found by the municipality to be in furtherance of this section and under conditions prescribed by the municipality.

(b) A home-rule municipality may, under a contract with a development corporation created by the municipality under the Development Corporation Act (Subtitle C1, Title 12), grant public money to the corporation. The development corporation shall use the grant money for the development and diversification of the economy of the state, elimination of unemployment or underemployment in the state, and development and expansion of commerce in the state.

(c) The funds granted by the municipality under this section shall be derived from any source lawfully available to the municipality under its charter or other law, other than from the proceeds of bonds or other obligations of the municipality payable from ad valorem taxes.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.06(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 25.02, eff. Aug. 22, 1991; Acts 2001, 77th Leg., ch. 56, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.26, eff. April 1, 2009.

Sec. 380.003. APPLICATION FOR MATCHING FUNDS FROM FEDERAL

GOVERNMENT. A municipality may, as an agency of the state, provide matching funds for a federal program that requires local matching funds from a state agency to the extent state agencies that are eligible decline to participate or do not fully participate in the program.

Added by Acts 1995, 74th Leg., ch. 1051, Sec. 1, eff. June 17, 1995.

Sec. 380.004. PROVISION OF CERTAIN INFORMATION TO COMPTROLLER. (a) Not later than the 14th day after the date of entering into, amending, or renewing an agreement authorized by this chapter, a municipality shall submit to the comptroller the information described by Section 403.0246(c), Government Code, and any other information the comptroller considers necessary to operate and update the database described by that section.

(b) A municipality shall transmit the information required by Subsection (a) in a form and manner prescribed by the comptroller.

(c) If a municipality submits an agreement to the comptroller under this section and maintains an Internet website, the municipality shall provide on the website a direct link to the location of the agreement information published on the comptroller's Internet website.

Added by Acts 2021, 87th Leg., R.S., Ch. 208 (H.B. 2404), Sec. 2, eff. September 1, 2021.

SUBTITLE B. COUNTY PLANNING AND DEVELOPMENT

CHAPTER 381. COUNTY DEVELOPMENT AND GROWTH

Sec. 381.001. COUNTY INDUSTRIAL COMMISSION. (a) The county judge of a county may appoint a county industrial commission.

(b) The commission must consist of not less than seven persons who must be residents of the county and must have exhibited interest in the industrial development of the county.

(c) In a county with a population of 15,800 to 16,800, or 16,950 to 17,400, or 18,600 to 19,000, or 24,600 to 24,800, a person appointed to the commission also must be serving or must have served on an industrial foundation committee, commissioners court, municipality's governing body, or school board. In addition, in those counties information obtained by the commission shall be

available to the commissioners court.

(d) A member of the commission serves a term of two years.

(e) The county may pay the necessary expenses of the commission.

(f) The commission shall investigate and undertake ways of promoting the prosperous development of business, industry, and commerce in the county. The commission shall promote the location and development of new businesses and industries in the county and the maintenance and expansion of existing businesses.

(g) The commission shall cooperate with and use the services of the Texas Department of Commerce.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 78(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 597, Sec. 103, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 106, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 97, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 189, eff. September 1, 2023.

Sec. 381.002. ADVERTISING AND PROMOTING GROWTH AND DEVELOPMENT. (a) If authorized by a majority vote of the qualified voters of the county voting at an election, the commissioners court of the county may appropriate from the county's general fund an amount not to exceed five cents on the $100 assessed valuation to advertise and promote the growth and development of the county. That money constitutes a separate fund to be known as the board of development fund and may be used only for board purposes.

(b) In a county qualifying under this section, a board of development is created. The board shall devote its time and effort to advertising and promoting the growth and development of the county.

(c) The board consists of five members who are appointed by the commissioners court and who serve terms of two years from the date of appointment. Members serve without compensation. Vacancies on the board shall be filled by the commissioners court in the same manner as the original appointments.

(d) Annually, the board shall prepare and submit to the commissioners court a budget for the ensuing year in the same manner required of counties.

(e) Subject to the approval of the commissioners court, the board may spend for personnel, rent, or materials any sum reasonably necessary to accomplish its purposes.

(f) Before a claim against the board is presented for payment, the claim must be approved by the board. After approval of the claim, it must be presented to the commissioners court and the commissioners court shall act on it in the same manner in which it acts on any other claim against the commissioners court.

(g) Although a county may operate under another law authorizing the appropriation of money or levy of a tax for advertising and promotion purposes, the county may not appropriate more for those purposes than the amount provided by Subsection (a).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1060, Sec. 2, eff. Aug. 28, 1989.

Sec. 381.003. DEVELOPMENT PROJECTS AUTHORIZED UNDER FEDERAL LAW. (a) The commissioners court of a county may administer or otherwise engage in community and economic development projects authorized under Title I of the Housing and Community Development Act of 1974 or under any other federal law creating community and economic development programs.

(b) The commissioners court of a county may administer, engage in, and otherwise exercise all powers necessary for the county to fully participate in housing and community development programs authorized under the Cranston-Gonzalez National Affordable Housing Act. This authority includes the power to impose assessments on real property and the owners of the property to recover all or part of the cost of a public improvement, as authorized by Section 916 of the Cranston-Gonzalez National Affordable Housing Act. The commissioners court may:

(1) use county funds, as matching funds, as may be necessary to obtain grants or financial assistance under that Act; or

(2) obtain grants and financial assistance under any other federal law creating housing and community development programs.

(c) The commissioners court of a county may provide services authorized by Chapter 2308, Government Code, if the commissioners court enters into a contract with a local workforce development board for the provision of services authorized by Chapter 2308, Government Code. The commissioners court may collect fees for the services performed and for unreimbursed costs associated with the provision of the services unless:

(1) state law prohibits the collection of the fee or unreimbursed cost; or

(2) the service provided is a service described by Subsections (a) and (b), 29 U.S.C. Section 49f.

(d) This section does not authorize a commissioners court to exercise any ordinance-making authority not otherwise specifically granted by state law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 140, Sec. 1, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 826, Sec. 3, eff. June 18, 1997.

Sec. 381.004. COMMUNITY AND ECONOMIC DEVELOPMENT PROGRAMS. (a) In this section:

(1) "Another entity" includes the federal government, the State of Texas, a municipality, school or other special district, finance corporation, institution of higher education, charitable or nonprofit organization, foundation, board, council, commission, or any other person.

(2) "Minority" includes blacks, Hispanics, Asian Americans, American Indians, and Alaska natives.

(3) "Minority business" means a business concern, more than 50 percent of which is owned and controlled in management and daily operations by members of one or more minorities.

(4) "Women-owned business" means a business concern, more than 50 percent of which is owned and controlled in management and daily operations by one or more women.

(b) To stimulate business and commercial activity in a county, the commissioners court of the county may develop and administer a program:

(1) for state or local economic development;

(2) for small or disadvantaged business development;

(3) to stimulate, encourage, and develop business location and commercial activity in the county;

(4) to promote or advertise the county and its vicinity or conduct a solicitation program to attract conventions, visitors, and businesses;

(5) to improve the extent to which women and minority businesses are awarded county contracts;

(6) to support comprehensive literacy programs for the benefit of county residents; or

(7) for the encouragement, promotion, improvement, and application of the arts.

(c) The commissioners court may:

(1) contract with another entity for the administration of the program;

(2) authorize the program to be administered on the basis of county commissioner precincts;

(3) use county employees or funds for the program; and

(4) accept contributions, gifts, or other resources to develop and administer the program.

(d) A program established under this section may be designed to reasonably increase participation by minority and women-owned businesses in public contract awards by the county by establishing a contract percentage goal for those businesses.

(e) The legislature may appropriate unclaimed money the comptroller receives under Chapter 74, Property Code, for a county to use in carrying out a program established under this section. To receive money for that purpose for any fiscal year, the county must request the money for that fiscal year. The amount a county may receive under this subsection for a fiscal year may not exceed an amount equal to the value of the capital credits the comptroller receives from an electric cooperative corporation on behalf of the corporation's members in the county requesting the money less an amount sufficient to pay anticipated expenses and claims. The comptroller shall transfer money in response to a request after deducting the amount the comptroller determines to be sufficient to pay anticipated expenses and claims.

(f) The commissioners court of a county may support a children's advocacy center that provides services to abused children.

(g) The commissioners court may develop and administer a program authorized by Subsection (b) for entering into a tax

abatement agreement with an owner or lessee of a property interest subject to ad valorem taxation. The execution, duration, and other terms of the agreement are governed, to the extent practicable, by the provisions of Sections 312.204, 312.205, and 312.211, Tax Code, as if the commissioners court were a governing body of a municipality.

(h) The commissioners court may develop and administer a program authorized by Subsection (b) for making loans and grants of public money and providing personnel and services of the county.

Added by Acts 1989, 71st Leg., ch. 1060, Sec. 3, eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1037, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 254, Sec. 1, eff. May 22, 2001; Acts 2001, 77th Leg., ch. 1154, Sec. 1, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1275, Sec. 2(109), eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 12.003, eff. September 1, 2015.

Sec. 381.005. PROVISION OF CERTAIN INFORMATION TO COMPTROLLER. (a) Not later than the 14th day after the date of entering into, amending, or renewing an agreement authorized by this chapter, a county, county industrial commission, or development board, as applicable, shall submit to the comptroller the information described by Section 403.0246(c), Government Code, and any other information the comptroller considers necessary to operate and update the database described by that section.

(b) A county, commission, or board shall transmit the information required by Subsection (a) in a form and manner prescribed by the comptroller.

(c) If a county or a commission or board created by the county submits an agreement to the comptroller under this section and the county maintains an Internet website, the county shall provide on the website a direct link to the location of the agreement information published on the comptroller's Internet website.

Added by Acts 2021, 87th Leg., R.S., Ch. 208 (H.B. 2404), Sec. 3, eff. September 1, 2021.

CHAPTER 382. IMPROVEMENT PROJECTS IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 382.001. DEFINITIONS. (a) In this chapter:

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

(2) "District" means a public improvement district created by a county under this chapter.

(3) "Hotel" has the meaning assigned by Section 156.001, Tax Code, and includes a timeshare, overnight lodging unit, or condominium during the time the timeshare, overnight lodging unit, or condominium is rented by a person who is not the owner of the timeshare, overnight lodging unit, or condominium.

(4) "Municipality" means the municipality in whose extraterritorial jurisdiction the improvement project is to be located.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.002. APPLICABILITY. This chapter applies only to:

(1) a county with a population of 1.5 million or more, other than a county that:

(A) borders on the Gulf of Mexico or a bay or inlet of the gulf; or

(B) has two municipalities located wholly or partly in its boundaries each having a population of 225,000 or more; or

(2) a county with a population of 70,000 or more that is adjacent to a county described by Subdivision (1) in which a municipality with a population of 90,000 or more is primarily situated and includes all or a part of the extraterritorial jurisdiction of a municipality with a population of 1.1 million or more.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 846 (H.B. 3597), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 98, eff.

September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 190, eff. September 1, 2023.

Sec. 382.003. NATURE OF DISTRICT; PURPOSE. (a) A district is created under Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

(b) By enacting this chapter, the legislature has created a program for economic development as provided in Section 52-a, Article III, Texas Constitution. A county may engage in economic development projects as provided by this chapter, and, on a determination of the commissioners court of the county to create a district, may delegate the authority to oversee and manage the economic development project to an appointed board of directors. In appointing a board, the commissioners court delegates its authority to serve a public use and benefit.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.004. COUNTY MAY ESTABLISH DISTRICT. A county may create a public improvement district under this chapter if the county determines it is in the county's best interest. A district is a political subdivision of this state.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.005. APPLICABILITY; CONFLICT OF LAWS. This chapter controls to the extent of a conflict between this chapter and Subchapter A, Chapter 372.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.006. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PROJECTS; OPTIONAL CREATION OF PUBLIC IMPROVEMENT DISTRICT. (a) The commissioners court of a county may on receipt of a petition satisfying the requirements of Section 372.005, establish by order an economic development project in a designated portion of the county, or, if the county determines it is in the best interests of the county, create a district by order only in an area located in the extraterritorial jurisdiction of a municipality in that county. If the county is a county described by Section 382.002(2), the petition described by this subsection must also be approved by a resolution adopted by the municipality with a population of 1.1 million or more.

(b) For a county described by Section 382.002(2), a district may only be created in an area containing at least 2,000 contiguous acres of land that is located wholly or partly in the extraterritorial jurisdiction of a municipality with a population of 1.1 million or more.

(c) The order must:

(1) describe the territory in which the economic development project is to be located or the boundaries of a district;

(2) specifically authorize the district to exercise the powers of this chapter if the county has determined that creating a district is in the county's best interests; and

(3) state whether the petition requests improvements to be financed and paid for with taxes authorized by this chapter instead of or in addition to assessments.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 382.051. GOVERNING BODY; TERMS. If a county elects to delegate the authority granted under this chapter, it shall appoint a board of seven directors to serve staggered two-year terms, with three or four directors' terms expiring June 1 of each year to manage the economic development project or, at the option of the county, govern the district.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec.

15.009, eff. September 1, 2009.

Sec. 382.052. ELIGIBILITY. (a) To be eligible to serve as a director, a person must be at least 18 years old.

(b) If the population of the district is more than 1,000, to be eligible to serve as a director, a person must be at least 18 years old, reside in the district, and be:

(1) an owner of property in the district;

(2) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(3) an owner of a beneficial interest in a trust that owns property in the district; or

(4) an agent, employee, or tenant of a person covered by Subdivision (1), (2), or (3).

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 717 (H.B. 304), Sec. 8, eff. September 1, 2019.

Sec. 382.053. VACANCIES; QUORUM. (a) A board vacancy is filled in the same manner as the original appointment.

(b) A vacant board position is not counted for the purposes of establishing a quorum of the board.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.054. CONFLICTS OF INTEREST. Chapter 171 governs conflicts of interest for directors.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.055. COMPENSATION. (a) For purposes of this section, "performs the duties of a director" means substantial performance of the management of the district's business, including participation in board and committee meetings and other activities involving the substantive deliberation of district business and in pertinent educational programs, but does not include routine or ministerial activities such as the execution of documents or self-preparation for meetings.

(b) A county is authorized to compensate the directors when they perform the duties of a director. The county shall compensate a director not more than $50 a day for each day that the director performs the duties of a director.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.056. OATH AND BOND; OFFICER ELECTIONS. As soon as practicable, a board member shall give the bond and take the oath of office in accordance with Section 375.067, and the board shall elect officers in accordance with Section 375.068.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 382.101. COUNTY'S GENERAL POWERS AND DUTIES. (a) A county operating under this chapter has the powers and duties of:

(1) a county development district under Chapter 383, except for Section 383.066;

(2) a road district created by a county under Section 52, Article III, Texas Constitution; and

(3) a municipality or county under Chapter 380 or 381, or under Section 372.003(b)(9).

(b) A county is authorized to manage an economic development project in a designated portion of the county, or to create a district and to delegate to a board the county's powers and duties as provided by this chapter.

(c) A county may not delegate to a district the powers and duties of a road district or the power to provide water, wastewater, or drainage facilities under this section unless both the municipality and county consent by resolution.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.102. DEVELOPMENT AGREEMENTS. A county may enter into a development agreement with an owner of land in the territory designated for an economic development project, or a district may enter into a development agreement, for a term not to exceed 30 years on any terms and conditions the county or the board considers advisable. The parties may amend the agreement.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.103. ECONOMIC DEVELOPMENT AGREEMENT; ELECTION; TAXES. (a) A county may enter into an agreement, only on terms and conditions the commissioners court and a board consider advisable, to make a grant or loan of public money to promote state or local economic development and to stimulate business and commercial activity in the territory where the economic development project is located, or in the district, including a grant or loan to induce the construction of a tourist destination or attraction in accordance with Chapter 380 or 381.

(b) If authorized by the county, a district may order an election to be held in the district to approve a grant or loan agreement. The grant or loan may be payable over a term of years and be enforceable on the district under the terms of the agreement and the conditions of the election, which may, subject to the requirements of Section 382.153(c), include the irrevocable obligation to impose an ad valorem tax, sales and use tax, or hotel occupancy tax for a term not to exceed 30 years. If authorized at the election, the board may contract to pay the taxes to the recipient of the grant or loan in accordance with the agreement.

(c) If the property owners petitioning a county to create a district under Section 382.006 propose that the district be created only to provide economic development grants or loans and road improvements and not to impose assessments, and the county determines that the creation of the district is in the best interests of the county, the district is not required to prepare a feasibility report, a service plan or assessment plan, or an assessment roll as required by Subchapter A, Chapter 372.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.104. CONTRACTS; GENERAL. (a) A district may contract with any person, including the municipality or county, on the terms and conditions and for a period of time the board determines, to:

(1) accomplish any district purpose, including a contract to pay, repay, or reimburse from tax proceeds or another specified source of money any costs, including reasonable interest, incurred by a person on the county's or the district's behalf, including all or part of the costs of an improvement project; and

(2) receive, administer, and perform the county's or the district's duties and obligations under a gift, grant, loan, conveyance, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or another person of an improvement project or proposed improvement project.

(b) A state agency, municipality, county, other political subdivision, corporation, or other person may contract with the county or district to carry out the purposes of this chapter.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.105. PROCUREMENT CONTRACTS. A district may contract for materials, supplies, and construction:

(1) in accordance with the laws applicable to counties; or

(2) in the same manner that a local government corporation created pursuant to Chapter 431, Transportation Code, is authorized to contract.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.106. RULES; ENFORCEMENT. A county may authorize the board to adopt rules:

(1) to administer and operate the district;

(2) for the use, enjoyment, availability, protection, security, and maintenance of district property, including facilities; or

(3) to provide for public safety and security in the district.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.107. FEES. A county may authorize a board to establish, revise, repeal, enforce, collect, and apply the proceeds from user fees or charges for the enjoyment, sale, rental, or other use of its facilities or other property, or for services or improvement projects.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.108. RULES; REGULATION OF ROADS AND OTHER PUBLIC AREAS. (a) A county may authorize a board to adopt rules to regulate the private use of public roadways, open spaces, parks, sidewalks, and similar public areas in the district, if the use is for a public purpose.

(b) A rule, order, ordinance, or regulation of a county or municipality that conflicts with a rule adopted under this section

controls to the extent of any conflict.

(c) A rule adopted under this section may provide for the safe and orderly use of public roadways, open spaces, parks, sidewalks, and similar public areas in the area of the district or economic development project.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.109. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the county may delegate to the district the authority to construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the territory targeted by the county for an economic development project, or the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is located outside the extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.110. UTILITIES. (a) This chapter does not grant the board any right-of-way management authority over public utilities.

(b) To the extent the construction, maintenance, or operation of a project under this chapter requires the relocation or extension of a public utility facility, the district shall reimburse the public utility for all costs associated with the relocation, removal, extension, or other adjustment of the facility.

Transferred from Local Government Code, Subchapter C, Chapter 372 and

amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.111. SERVICE PLAN REQUIRED. The commissioners court of the county that created the district may require a district to prepare an annual service plan, in the manner provided for by Section 372.013, that meets the approval of the commissioners court.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.112. NO EMINENT DOMAIN. A district may not exercise the power of eminent domain.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.113. ANNEXATION OR EXCLUSION OF LAND. (a) This section applies only to a district created in a county described by Section 382.002(1).

(b) A district may annex or exclude land from the district as provided by Subchapter J, Chapter 49, Water Code.

(c) Before a district may adopt an order adding or excluding land, the district must obtain the consent of:

(1) the county that created the district by a resolution of the county commissioners court; and

(2) a municipality in whose extraterritorial jurisdiction the district is located by a resolution adopted by the municipality's governing body.

Added by Acts 2011, 82nd Leg., R.S., Ch. 846 (H.B. 3597), Sec. 2, eff. June 17, 2011.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; TAXES

Sec. 382.151. NO TAX ABATEMENTS. A county may not grant a tax

abatement or enter into a tax abatement agreement for a district.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.152. BONDS; NOTES. (a) A district may not issue bonds unless approved by the commissioners court of the county that created the district. Bonds may not be issued unless approved by a majority of the voters of the district voting in an election held for that purpose. A bond election under this subsection does not affect prior bond issuances and is not required for refunding bond issuances.

(b) A district may not issue a negotiable promissory note or notes unless approved by the commissioners court of the county that created the district.

(c) If the commissioners court grants approval under this section, bonds, notes, and other district obligations may be secured by district revenue or any type of district taxes or assessments, or any combination of taxes and revenue pledged to the payment of bonds.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.153. AUTHORITY TO IMPOSE ASSESSMENTS AND AD VALOREM, SALES AND USE, AND HOTEL OCCUPANCY TAXES; ELECTION. (a) A county or a district may accomplish its purposes and pay the cost of services and improvements by imposing:

(1) an assessment;

(2) an ad valorem tax;

(3) a sales and use tax; or

(4) a hotel occupancy tax.

(b) A district may impose an ad valorem tax, hotel occupancy tax, or sales and use tax to accomplish the economic development purposes prescribed by Section 52a, Article III, Texas Constitution, if the tax is approved by:

(1) the commissioners court of the county that created the district; and

(2) a majority of the voters of the district voting at an election held for that purpose.

(c) A county must adopt an order providing whether a district has the authority to impose a hotel occupancy tax, sales and use tax, or ad valorem tax, and must provide the rate at which the district may impose the tax. A tax rate approved by the commissioners court and pledged to secure bonds, notes, grant agreements, or development agreements may not be reduced until the obligations of those instruments have been satisfied.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.154. USE OF REVENUE FROM TAXES. A tax authorized by a county to be imposed under this chapter may be used to accomplish any improvement project or road project, or to provide any service authorized by this chapter or Chapter 372, 380, 381, or 383.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.155. HOTEL OCCUPANCY TAX. (a) A county may authorize a district to impose a hotel occupancy tax on a person who pays for the use or possession of or for the right to the use or possession of a room that is ordinarily used for sleeping in a hotel in the district.

(b) If authorized by a county, a district shall impose a hotel occupancy tax in the same manner as provided by Section 352.107, Tax Code.

(c) The hotel occupancy tax rate is the greater of nine percent or the rate imposed by the municipality.

(d) A hotel occupancy tax imposed by a district in a county described by Section 382.002(1) may be used:

(1) for a purpose described by Chapter 352, Tax Code; or

(2) to encourage the development or operation of a hotel in the district, including an economic development program for or a grant, loan, service, or improvement to a hotel in the district.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 846 (H.B. 3597), Sec. 3, eff. June 17, 2011.

Sec. 382.1555. USE OF HOTEL OCCUPANCY TAX FOR ANY PURPOSE. (a) If authorized by a county, a district may impose a hotel occupancy tax under Section 382.155 and use the revenue from the tax for any purpose authorized by this chapter if the owner of the hotel agrees to the imposition of the tax.

(b) After the owner agrees, the agreement may not be revoked by the owner of the hotel or any subsequent owner of the hotel.

(c) To the extent of a conflict with Section 382.155(d), this section controls.

Added by Acts 2011, 82nd Leg., R.S., Ch. 846 (H.B. 3597), Sec. 4, eff. June 17, 2011.

Sec. 382.156. SALES AND USE TAX. (a) A commissioners court may authorize a district to impose a sales and use tax in increments of one-eighth of one percent up to a rate of two percent.

(b) Except as otherwise provided in this chapter, a sales and use tax must be imposed in accordance with Chapter 383, Local Government Code, or Chapter 323, Tax Code.

(c) The ballot for a sales tax election shall be printed to provide for voting for or against the proposition: "A sales and use tax at a rate not to exceed ____ [insert percentage rate] in the _____ [insert name of district]" or "The adoption of a ____ [insert percentage rate] sales and use tax in the _____ [insert name of district]."

(d) A tax authorized at an election held under this section may be imposed at a rate less than or equal to the rate printed in the ballot proposition.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.157. AD VALOREM TAX. A commissioners court may authorize a district to impose an ad valorem tax on property in the district in accordance with Chapter 257, Transportation Code.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.158. BORROWING. The commissioners court may authorize a district to borrow money for any district purpose, including for a development agreement that authorizes the district to borrow money.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.159. REPAYMENT OF COSTS. The commissioners court may authorize a district, by a lease, lease-purchase agreement, installment purchase contract, or other agreement, or by the imposition or assessment of a tax, user fee, concession, rental, or other revenue or resource of the district, to provide for or secure the payment or repayment of:

(1) the costs and expenses of the establishment, administration, and operation of the district;

(2) the district's costs or share of costs of an improvement project; or

(3) the district's contractual obligations or indebtedness.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

SUBCHAPTER E. ANNEXATION BY MUNICIPALITY; TAXES

Sec. 382.201. LIABILITIES; ASSUMPTION OF ASSETS AFTER COMPLETE ANNEXATION BY MUNICIPALITY. (a) If the municipality annexes the entire territory of a district, the municipality shall assume the

district's assets, but is not liable for the district's debt or other obligations.

(b) If the county has authorized a district to have debt or other obligations, the district remains in existence after the territory is annexed by the municipality for the purpose of collecting any taxes or assessments authorized by the county and imposed by the district before annexation. Taxes or assessments collected after annexation must be used by the district solely for the purpose of satisfying any preexisting county-authorized district debt or other obligation. After the debt or other obligations have been discharged, or two years have expired since the date of the annexation, the district is dissolved and any outstanding debt or obligations are extinguished.

Transferred from Local Government Code, Subchapter C, Chapter 372 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

Sec. 382.202. AUTHORITY TO IMPOSE TAXES OF ASSESSMENTS AFTER PARTIAL OR COMPLETE ANNEXATION. (a) After a district has been annexed by a municipality wholly or partly for general purposes, the county may not authorize the district to impose an ad valorem tax, hotel occupancy tax, or sales and use tax, or collect an assessment in the area that the municipality overlaps the district, except as provided by Subsection (b) or Section 382.201(b).

(b) A district may continue to impose a tax in an area that the municipality annexes for limited purposes and in which the municipality does not impose taxes. If the municipality annexes an area for limited purposes and imposes some of the taxes which the district is imposing but not all of them, the district may continue to impose taxes only to the extent that the level of taxation of the municipality and the district combined, calculating the hotel tax, the sales tax, and the ad valorem tax independently, is equal to or less than the tax level of the municipality as to fully annexed areas.

(c) The legislature intends that the level of taxation of areas where the district and the municipality overlap do not exceed the level of taxation of fully annexed areas.

Transferred from Local Government Code, Subchapter C, Chapter 372 and

amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.009, eff. September 1, 2009.

CHAPTER 383. COUNTY DEVELOPMENT DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 383.001. SHORT TITLE. This chapter may be cited as the County Development District Act.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.601 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.002. LEGISLATIVE INTENT. This chapter furthers the public purpose of developing and diversifying the economy of this state by providing incentives for the location and development of projects in certain counties to attract visitors and tourists.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.602 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.003. FINDINGS. (a) Small and medium-sized counties in this state need incentives for the development of public improvements to attract visitors and tourists to those counties, and those counties are at a disadvantage in competing with counties in other states for the location and development of projects that attract visitors by virtue of the availability and prevalent use of financial incentives in other states.

(b) The means and measures authorized by this chapter are in the public interest and serve a public purpose of this state in promoting the economic welfare of the residents of this state by providing incentives for the location and development in certain counties of this state of projects that attract visitors and tourists and that result in employment and economic activity.

(c) The creation of development districts is essential to the accomplishment of Section 52-a, Article III, Texas Constitution, and to the accomplishment of the other public purposes stated in this chapter and further serves the purpose of Section 59, Article XVI,

and Section 52, Article III, Texas Constitution.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.603 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.004. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Bonds" includes notes and other obligations.

(3) "Commissioners court" means the governing body of the county.

(4) "Cost" has the meaning assigned by Section 501.152.

(5) "County" means the county in which the district is located.

(6) "Director" means a member of the board.

(7) "District" means a county development district created under this chapter.

(8) "Project" has the meaning assigned by Sections 505.151-505.156.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.604 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.27, eff. April 1, 2009.

Sec. 383.005. GOVERNMENTAL AGENCY; TORT CLAIMS. A district is a governmental agency, a body politic and corporate, and a political subdivision of the state. Section 375.004 applies to a district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.627(b) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

SUBCHAPTER B. CREATION OF DISTRICT; TEMPORARY BOARD

Sec. 383.021. COUNTIES AUTHORIZED TO CREATE DISTRICTS. (a) The commissioners court of a county with a population of 400,000 or

less, on petition of the owners of land in a proposed district, may commence the creation of a county development district.

(b) The creation of the district is subject to a confirmation election held as provided by this chapter.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.605 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.022. PETITION OF LANDOWNERS. To create a district, a petition requesting creation must be filed with the commissioners court of the county in which all of the land in the proposed district is located. The petition must be accompanied by a sworn statement indicating consent to creation signed by the holders of fee simple title of all of the land in the proposed district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.6055 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.023. CONTENTS OF PETITION. The petition must:

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

(2) include a name for the proposed district, which must include the name of the county followed by the words "Development District No._____";

(3) include the names of five persons who are willing and qualified to serve as temporary directors of the proposed district;

(4) state the general nature of the work proposed to be done and the cost of the project as then estimated by the petitioners; and

(5) state the necessity and feasibility of the proposed district and whether the district will serve the public purpose of attracting visitors and tourists to the county.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.606 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.024. COMMISSION HEARING; CONTENTS OF NOTICE. Before the 61st day after the date a petition is received, the commissioners court shall set a date, time, and place at which the petition shall be heard and shall issue notice of the date, time, place, and subject matter of the hearing. The notice shall inform all persons of their right to appear and present evidence and testify for or against the creation of the district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.607 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.025. NOTICE OF HEARING. Before the 30th day before the date set for the hearing, notice of the hearing shall be mailed to the developer who signed the petition and the landowners of all the land in the district and shall be published in a newspaper with general circulation in the county in which the proposed district is located.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.608 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.026. HEARING. At the hearing, the commissioners court shall examine the petition to ascertain its sufficiency, and any interested person may appear before the commissioners court to offer testimony on the sufficiency of the petition and whether the district should be created.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.609 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.027. GRANTING OR REFUSING PETITION. (a) After the hearing, if the commissioners court finds that the petition conforms to the requirements of Section 383.022 and that the creation of the

district and the proposed project is feasible and necessary and would serve the public purpose of attracting visitors or tourists to the county, the commissioners court may make that finding and enter an order creating the district.

(b) The order creating the district may specify the cost to the county of publishing notice and conducting hearings for the creation of the district together with the cost of conducting the confirmation and sales and use tax election. The county may require the petitioner to pay to the county the amounts specified in the order creating the district at the time the order becomes final.

(c) If the commissioners court finds that the petition does not conform to the requirements of Section 383.022 or that the creation of the district and the proposed project is not feasible and necessary and would not serve the purpose of attracting visitors and tourists to the county, the commissioners court shall make that finding in an order and deny the petition.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.610 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 1199, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 12.110, eff. Sept. 1, 2001.

Sec. 383.028. TEMPORARY DIRECTORS; VACANCY IN OFFICE. (a) If the commissioners court grants the petition, it shall appoint to serve as temporary directors of the district five persons who are qualified under this chapter to serve as directors.

(b) A vacancy in the office of temporary director shall be filled by appointment by the commissioners court.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.611 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.029. QUALIFICATION OF TEMPORARY DIRECTORS; ORGANIZATION. (a) Each temporary director shall execute a bond in accordance with Section 383.046 and shall take an oath of office.

(b) The board shall meet and organize.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.612 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.030. CONFIRMATION AND SALES AND USE TAX ELECTION. The temporary board of directors shall conduct an election in the district to confirm the creation of the district and authorize a sales and use tax in conformity with this chapter.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.613 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.031. ELECTION ORDER. An order calling an election under Section 383.030 must state:

(1) the nature of the election, including the proposition that is to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open;

(4) the location of the polling places; and

(5) the proposed rate of the sales and use tax for the district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.614 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.032. NOTICE. The temporary directors shall give notice of the election by publishing a substantial copy of the election order once a week for two consecutive weeks in a newspaper with general circulation in the county in which the proposed district is located. The first publication must appear before the 14th day before the date set for the election.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.615 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.033. CONDUCT OF ELECTION. (a) The election shall be held in accordance with the provisions of the Election Code, to the extent not inconsistent with this chapter.

(b) The ballot shall be printed to permit voting for or against the proposition: "The creation of _____ County Development District No. _____ and the adoption of a proposed local sales and use tax rate of _____ (the rate specified in the election order) to be used for the promotion and development of tourism."

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.616 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.034. RESULTS OF ELECTION. (a) After the election, the presiding judge shall make returns of the result to the temporary board of directors. The temporary board of directors shall canvass the returns and declare the results.

(b) If a majority of the votes cast in the election favor the creation of the district and the adoption of the sales and use tax, the temporary board shall declare that the district is created and shall declare the amount of the local sales and use tax adopted and enter the result in its minutes. If a majority of the votes cast in the election are against the creation of the district and the adoption of the sales and use tax, the temporary board shall declare that the proposition to create the district was defeated and enter the result in its minutes.

(c) A certified copy of the minute order declaring that the district is created and the local sales and use tax adopted and including the rate of the sales and use tax, or declaring that the proposition to create the district was defeated, shall be sent to the commissioners court, the comptroller, and any taxing entity by certified or registered mail. The order shall also show the date of the election, the proposition on which the vote was held, the total number of votes cast for or against the proposition, and the number of votes by which the proposition was approved.

(d) In the event 10 or fewer votes are cast in the confirmation and sales and use tax election, within 90 days following the entry of the order canvassing the election the proceedings of the election, including voter affidavits as to residency and qualification to vote,

shall be submitted to the attorney general.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.617 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 1199, Sec. 2, eff. Sept. 1, 1997.

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS; BOARD OF DIRECTORS

Sec. 383.041. BOARD OF DIRECTORS; TERMS. (a) A district is governed by a board of five directors appointed by the commissioners court of the county in which the district is located. The temporary directors appointed under Section 383.028 shall become permanent directors of the district, if the creation of the district is confirmed at the confirmation election.

(b) Directors serve staggered terms of four years with two or three members' terms expiring September 1 of every other year. Following confirmation of the district at the election, the temporary directors shall draw lots to determine:

(1) the two directors to serve terms that expire on September 1 of the second year following creation of the district; and

(2) the three directors to serve terms that expire on September 1 of the fourth year following creation of the district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.618 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.042. QUALIFICATIONS OF DIRECTOR. To be qualified to serve as a director, a person must be at least 21 years of age, a resident citizen of this state, and a qualified voter of the county in which the district is located.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.619 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.043. PERSONS DISQUALIFIED TO SERVE. Section 50.026,

Water Code, applies to a director of a district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.620 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.044. REMOVAL OF DIRECTOR. The commissioners court, after notice and hearing, may remove a director for misconduct or failure to carry out the director's duties if petitioned by a majority of the remaining directors.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.622 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.045. BOARD VACANCY. A vacancy in the office of director shall be filled by appointment of the commissioners court.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.621 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.046. DIRECTOR'S COMPENSATION; BOND AND OATH OF OFFICE. A director is not entitled to receive compensation for service on the board. Sections 375.067, 375.069, and 375.070 apply to a director.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.626 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.047. OFFICERS. After each appointment of directors by the commissioners court, and after the directors have qualified by taking the proper oath, the directors shall organize by electing a president, a vice president, a secretary, and any other officer the board considers necessary.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.623 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.048. QUORUM; OFFICERS' DUTIES. (a) Three directors constitute a quorum and a concurrence of three is sufficient in any matter relating to the business of the district.

(b) The president presides at all board meetings and is the chief executive officer of the district. The vice president acts as president if the president is absent or disabled.

(c) The secretary acts as president if both the president and vice president are absent or disabled. The secretary acts as secretary of the board and is responsible for seeing that all records and books of the district are properly kept.

(d) The board may appoint another director, the general manager, or an employee as assistant or deputy secretary to assist the secretary. The assistant or deputy secretary may certify the authenticity of any record of the district, including a proceeding relating to a bond, contract, or indebtedness of the district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.624 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.049. BYLAWS. The board may adopt bylaws to govern:

(1) the time, place, and manner of conducting board meetings;

(2) the powers, duties, and other responsibilities of the board's officers and employees;

(3) the disbursement of money by a check, draft, or warrant;

(4) the appointment and authority of director committees;

(5) the keeping of accounts and other records; and

(6) any other matter the board considers appropriate.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.050. MANAGEMENT OF DISTRICT. (a) The board has control over and shall manage the affairs of the district and shall employ any person, firm, partnership, or corporation the board considers necessary for conducting the affairs of the district, including engineers, attorneys, financial advisors, a general manager, a utility operator, bookkeepers, auditors, and secretaries.

(b) The board shall determine the term of office and the compensation of any employee and consultant by contract or by resolution of the board.

(c) The board may remove any employee.

(d) The board may require an officer or employer to execute a bond payable to the district and conditioned on the faithful performance of the person's duties.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.051. DIRECTOR INTERESTED IN CONTRACT. (a) A director who is financially interested in a contract with the district or a director who is an employee of a person who or firm that is financially interested in a contract with the district shall disclose that fact to the other directors. The disclosure shall be entered into the minutes of the meeting.

(b) An interested director may not vote on the acceptance of the contract or participate in the discussion on the contract.

(c) The failure of a director to disclose the director's financial interest in a contract and to have the disclosure entered in the minutes invalidates the contract.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.052. DISTRICT OFFICE. The board shall designate and establish a district office in the county.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.625(a) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.053. MEETINGS AND NOTICE. (a) The board may establish regular meetings to conduct district business and may hold special meetings at other times as the business of the district requires.

(b) Notice of the time, place, and purpose of a meeting of the board shall be given by posting the notice at a place convenient to the public in the district. A copy of the notice shall be furnished to a clerk of the county, who shall post it on a bulletin board in the county courthouse used for that purpose.

(c) Except as otherwise provided by this chapter, Chapter 551, Government Code, applies to the meetings of the board. Any interested person may attend any meeting of the board.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.625(b) to (d) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 383.061. GENERAL POWERS OF DISTRICT. (a) A district may acquire and dispose of projects and has all of the other powers, authority, rights, and duties that will permit accomplishment of the purposes for which the district was created.

(b) The district has the powers of a municipal management district created under Chapter 375 to the extent not inconsistent with this chapter.

(c) The district has the power to provide for general promotion and tourist advertising of the district and its vicinity and to conduct a marketing program to attract visitors, any of which may be conducted by the district pursuant to contracts for professional services with persons or organizations selected by the district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.628 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.062. SUITS. A district, after it is created and confirmed, through its directors may sue and be sued in any court of this state in the name of the district. Service of process in any suit may be made by serving any two directors.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.627(b) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.063. EMINENT DOMAIN. (a) A district that is not located within a municipality may exercise the power of eminent domain to acquire land or interests in land in the district considered necessary by the board for the purpose of providing water and sewer services to an authorized project.

(b) The power of eminent domain shall be exercised in the manner provided by Chapter 21, Property Code.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.630 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.064. EXPENDITURES. A district's money may be disbursed only by check, draft, order, or another instrument that must be signed by at least three directors. The general manager, treasurer, or other employee of the district, if authorized by resolution of the board, may sign checks, drafts, orders, or other instruments on any district operation account and these need not be signed by any other person.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.631 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.065. PURPOSES FOR BORROWING MONEY. The district may borrow money for any corporate purpose or combination of corporate purposes.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.632 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.066. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The

directors may pay:

(1) all costs and expenses necessarily incurred in the creation and organization of the district;

(2) the cost of investigation and making plans;

(3) the cost of the engineer's report;

(4) project designer fees;

(5) legal fees; and

(6) other incidental expenses.

(b) A director may reimburse any person for money advanced for the costs, fees, and expenses described by Subsection (a).

(c) Payments under this section may be made from money obtained from the issuance of notes or the sale of bonds first issued by the district or from other district revenues.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.633 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

SUBCHAPTER E. BONDS

Sec. 383.081. ISSUANCE OF BONDS. The district may issue bonds for the purpose of defraying all or part of the cost of any project as provided in this chapter. Sections 375.201 through 375.208 apply to a district to the extent not inconsistent with this chapter.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.634 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.082. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of principal of and interest and redemption price on bonds:

(1) from taxes;

(2) by pledging all or any part of the designated revenues, license fees, or other compensation from a project or any part of a project, including revenues and receipts derived by the district from the lease or sale of the project;

(3) by pledging all or any part of any grant, donation, revenue, or income received or to be received from any public or private source; or

(4) from a combination of such sources.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.635 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.083. USE OF BOND PROCEEDS. The district may use bond proceeds to:

(1) pay interest on the bonds during and after the period of the acquisition or construction of a project;

(2) pay administrative and operating expenses;

(3) create a reserve fund for the payment of principal and interest on the bonds; and

(4) pay all expenses incurred or that will be incurred in the issuance, sale, and delivery of the bonds.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from V.T.C.A, Tax Code Sec. 312.636 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.084. ADDING AND EXCLUDING LAND FROM THE DISTRICT. (a) Before the board issues bonds, the board, on its own motion or on request of a landowner in the district, may petition the commissioners court for the addition of land to or exclusion of land from the district.

(b) If the commissioners court unanimously determines from the evidence that the best interests of the persons and property in the district will be served by adding or excluding land, the commissioners court shall enter in its records the appropriate findings and order adding or excluding land.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.638 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

SUBCHAPTER F. SALES AND USE TAX

Sec. 383.101. SALES AND USE TAX. (a) A district may impose a sales and use tax for the benefit of the district if authorized by a

majority of the qualified voters of the district voting at an election called for that purpose. The sales and use tax, if adopted, does not count toward the limitation imposed by Chapter 323, Tax Code, on any sales and use tax that has been levied by the county.

(b) If a district adopts the tax, there is imposed a tax on the receipts from the sale at retail of taxable items in the district at a rate of up to one-half of one percent. There is also imposed an excise tax on the use, storage, or other consumption in the district of taxable items purchased, leased, or rented from a retailer during the period that the tax is effective in the district. The rate of the excise tax is the same as the rate of the sales tax portion of the tax applied to the sales price of the taxable items and is included in the sales tax.

(c) For purposes of this section, "taxable items" includes all items subject to any sales and use tax that is imposed by the county if the county has imposed a sales and use tax.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.637(a), (b) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.102. IMPOSITION, COMPUTATION, ADMINISTRATION, AND GOVERNANCE OF TAX. (a) Chapter 323, Tax Code, to the extent not inconsistent with this chapter, governs the imposition, computation, administration, and governance of the tax under this subchapter, except that Sections 323.101(b) and (e), Tax Code, and Sections 323.209, 323.401 through 323.406, and 323.505, Tax Code, do not apply.

(b) Chapter 323, Tax Code, does not apply to the use and allocation of revenues under this chapter.

(c) In applying the procedures under Chapter 323, Tax Code, the district's name shall be substituted for "the county" and "board of directors" is substituted for "commissioners court."

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.637(c) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.103. TAX RATES. The permissible rates for a local

sales and use tax levied under this chapter are one-fourth of one percent, three-eighths of one percent, and one-half of one percent.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.637(d) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.104. ABOLITION OF OR CHANGE IN TAX RATE. (a) The board by order may decrease or abolish the local sales and use tax rate or may call an election to increase, decrease, or abolish the local sales and use tax rate.

(b) At the election, the ballots shall be printed to permit voting for or against the proposition: "The increase (decrease) in the local sales and use tax rate of (name of district) to (percentage) to be used for the promotion and development of tourism" or "The abolition of the district sales and use tax used for the promotion and development of tourism." The increase or decrease in the tax rate is effective if it is approved by a majority of the votes cast. In calling and holding the election, the board shall use the procedure for the confirmation and tax election set forth in this chapter.

(c) The district's sales and use tax is automatically discontinued by operation of law if no tax revenue is collected within the district before the first anniversary of the date the tax took effect. The comptroller shall notify the board and the commissioners court of the county in which the district is located of the discontinuance of the tax. The district may authorize a new sales and use tax by following the procedures provided by this subchapter for imposition of the tax.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.637(e), (f) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 6, eff. Sept. 1, 2001.

Sec. 383.105. USE OF TAX. Taxes collected under this subchapter may be used only for the purposes for which the district was created, and the district may pledge the revenue derived from the taxes imposed under this subchapter to the payment of bonds issued by

the district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.637(g) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.106. LIMITATION ON ADOPTION OF TAX. (a) A district may adopt a tax under this subchapter only if as a result of adoption of the tax the combined rate of all local sales and use taxes imposed by political subdivisions having territory in the district will not exceed two percent.

(b) If, as a result of the imposition or increase in a sales and use tax by a municipality in which there is located a district with an existing sales and use tax or as a result of the annexation by a municipality of the territory in a district with an existing sales and use tax, the overlapping local sales and use taxes in the area in the district will exceed two percent, the district's sales and use tax rate is automatically reduced to a rate that when added to the combined rate of local sales and use taxes will equal two percent.

(c) If a district's tax rate is reduced in accordance with Subsection (b), the municipality shall make payments to the district equal to the amounts that would have been collected by the district had the municipality not imposed or increased its sales and use tax or annexed the area in the district, less amounts that the district collects following the municipality's levy of or increase in its sales and use tax or annexation of the area in the district. The payment shall be made by the municipality to the district within 10 days after the date of receipt of the money from the comptroller's office and shall continue only for so long as any bonds of the district are outstanding.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1997. Renumbered from Tax Code Sec. 312.637(h) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

SUBCHAPTER G. COMPETITIVE BIDDING

Sec. 383.111. COMPETITIVE BIDDING. Sections 375.221 and 375.223 apply to a district created under this chapter.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.629 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.112. EXEMPTION. Notwithstanding any other provision of this chapter to the contrary, any contract between the district and a governmental entity or nonprofit corporation created under the Development Corporation Act (Subtitle C1, Title 12) is not subject to the competitive bidding requirements of this chapter.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.629 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.28, eff. April 1, 2009.

SUBCHAPTER H. DISSOLUTION

Sec. 383.121. DISSOLUTION OF DISTRICT. A district may be dissolved only as provided by this subchapter.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.639(a) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.122. DISSOLUTION BY ORDER OF COMMISSIONERS COURT. (a) The board may petition the commissioners court to dissolve the district if a majority of the board finds at any time:

(1) before the authorization of bonds or the final lending of its credit, that the proposed undertaking is impracticable or cannot be successfully and beneficially accomplished; or

(2) that all bonds of the district or other debts of the district have been paid and the purposes of the district have been accomplished.

(b) On receipt of a petition from the board for the dissolution of the district, the commissioners court shall hold a hearing as provided by Section 383.024.

(c) If the commissioners court unanimously determines from the

evidence that the best interests of the county and the owners of property and interests in property in the district will be served by dissolving the district, the commissioners court shall enter in its records the appropriate findings and order dissolution of the district. Otherwise the commissioners court shall enter its order providing that the district has not been dissolved. On dissolution of the district, funds and property of the district, if any, shall be transferred to the commissioners court.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1997. Renumbered from Tax Code Sec. 312.639(b), (c) and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

Sec. 383.123. DISSOLUTION OF DISTRICT ON AGREEMENT WITH MUNICIPALITY. A district may be dissolved by agreement between the governing body of a municipality and the board if all of the territory in the district is located in or is annexed by the municipality. The agreement shall require the municipality to acquire all of the money, property, and other assets of the district and assume all contracts, debts, bonds, and other obligations of the district, and the municipality shall be bound in the same manner and to the same extent that the district was bound with respect to those contracts, debts, bonds, and other obligations. On dissolution of the district, the taxes levied by the district are abolished.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 5, eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 312.640 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.05, eff. Sept. 1, 1997.

CHAPTER 386. COMMERCIAL AND INDUSTRIAL DEVELOPMENT ZONES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 386.001. DEFINITIONS. In this chapter:

(1) "Board" means a board of directors of a commercial and industrial development zone.

(2) "Development zone" means an area designated as a commercial and industrial development zone under this chapter.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.002. JURISDICTION OF MUNICIPALITY. For the purposes of this chapter, territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

SUBCHAPTER B. CREATION OF COMMERCIAL AND INDUSTRIAL DEVELOPMENT ZONE

Sec. 386.031. CRITERIA FOR DEVELOPMENT ZONE CREATION. (a) To be created as a development zone, an area must:

(1) have a continuous boundary;

(2) be at least 10 square miles but not larger than an area that is equal to five percent of the area, excluding lakes, waterways, and transportation arteries, of the municipality, county, or combination of municipalities and the county nominating the area as a development zone;

(3) be an area of pervasive poverty, unemployment, or economic distress;

(4) be located in a county with a population of 3.3 million or more;

(5) be adjacent to major transportation nodes and thoroughfares that may be used for exporting products to major airports, railways, and ports; and

(6) be designated as a development zone by an ordinance or order adopted by each creating body.

(b) A municipality may contain not more than three development zones within its jurisdiction.

(c) A county may contain not more than three development zones in its unincorporated areas.

(d) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(9).

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(9), eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 99, eff. September 1, 2011.

Sec. 386.032. AREA OF PERVASIVE POVERTY, UNEMPLOYMENT, OR

ECONOMIC DISTRESS. An area is an area of pervasive poverty, unemployment, or economic distress for the purposes of Section 386.031 if:

(1) the average rate of unemployment in the area during the most recent 12-month period for which data are available was at least 1-1/2 times the state average for that period;

(2) the area is a low-income poverty area;

(3) the area is in a jurisdiction or pocket of poverty, according to the most recent certification available from the United States Department of Housing and Urban Development; or

(4) at least 70 percent of the residents or households of the area have an income that is less than 80 percent of the median income of the residents or households of the locality or state, whichever is less.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.033. CREATION OF DEVELOPMENT ZONE. (a) A development zone is created to promote and encourage:

(1) commercial development, including the development of businesses in the technology field;

(2) workforce development;

(3) excellence in education through cooperation with public schools, junior colleges, and institutions of higher education;

(4) public and private sector partnerships; and

(5) the revitalization of neighborhoods.

(b) The governing body of a municipality or county, individually or in combination with other municipalities, by ordinance or order may create as a development zone an area within its jurisdiction that meets the criteria under Section 386.031.

(c) Each creating body must hold a public hearing before adopting an ordinance or order under this section.

(d) The governing body of a county may not designate territory in the jurisdiction of a municipality as part of a proposed development zone unless the governing body of the municipality also designates the territory.

(e) A development zone created under this section is a:

(1) political subdivision of the state; and

(2) special district.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.034. DESIGNATING ORDINANCE OR ORDER. (a) An ordinance or order designating an area as a development zone must:

(1) describe precisely the area to be included in the zone by a legal description or by reference to roadways, lakes, waterways, or municipal or county boundaries;

(2) state a finding that the area meets the requirements of this chapter;

(3) summarize briefly the:

(A) incentives, including tax incentives, that the designating body chooses to apply to businesses in the area; or

(B) programs to be developed to affect businesses in the area; and

(4) designate the area as a development zone.

(b) The incentives or programs summarized under Subsection (a)(3) must include:

(1) an incentive that does not apply to all businesses located in the jurisdiction of a governmental entity that designated the area as a development zone;

(2) an incentive or program designed to improve the skills of the local labor pool; and

(3) an incentive or program designed to address infrastructure, housing, or other elements essential to improving quality of life.

(c) This section does not prohibit a municipality or county from extending additional incentives, including tax incentives, to business enterprises in a development zone by a separate ordinance or order.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.035. TAX INCREMENT. (a) A creating body may use tax increment financing to fund a development zone, as provided by Chapter 311, Tax Code, and as modified by this section.

(b) On adoption of an order or ordinance by each creating body, the fund may be used to pay salaries of employees of the board and administrative expenses of the development zone.

(c) For the purpose of tax increment financing under this section, the board is considered the board of directors of the reinvestment zone under Chapter 311, Tax Code. Section 311.009, Tax Code, does not apply to this chapter.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.036. AMENDING BOUNDARIES. (a) A creating body by ordinance or order may amend the boundary of a development zone after a public hearing on the issue.

(b) The amended boundary:

(1) must be continuous;

(2) may not exceed the original size requirement of Section 386.031; and

(3) may not exclude any area originally included within the boundary of the development zone.

(c) The entire development zone with the amended boundary must continue to meet the unemployment or economic distress requirements of Section 386.031.

(d) A creating body may not make more than one boundary amendment for a development zone in a calendar year.

(e) If more than one body created the development zone, each body must agree on the amendment by ordinance or order.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 386.061. BOARD OF DIRECTORS. (a) A development zone is governed by a board of nine directors who serve two-year terms, appointed as follows:

(1) the governing body of the municipality, if any, that includes the greatest part of the zone's territory shall appoint four directors;

(2) other municipalities, if any, any part of which are included in the zone's territory, jointly shall appoint one director;

(3) the commissioners court of the county in which the zone is located shall appoint:

(A) nine directors, if the zone contains no municipality; or

(B) four directors, if the zone contains one or more municipalities; and

(4) if a development zone contains territory in only one municipality, the municipality and the county in which the zone is located jointly shall appoint one director.

(b) The initial terms of directors may be staggered.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.062. QUALIFICATIONS OF DIRECTORS. To serve as a director, a person must:

(1) be at least 21 years old; and

(2) be registered to vote in the county in which the development zone is located.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.063. DISQUALIFICATION OF DIRECTORS. Section 49.052, Water Code, applies to directors of a development zone created under this chapter as if the zone were a district governed by that section.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.064. BOARD VACANCIES. A vacancy in the office of director shall be filled by appointment by the entity that appointed the vacating director.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.065. REMOVAL OF DIRECTOR. A majority of the board may remove a director for misconduct or failure to carry out the director's duties.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.066. ORGANIZATION OF BOARD. (a) Except as provided

by Subsection (b), after each appointment and qualification of directors by the appointing entities, the board shall organize by electing a president, a vice president, a secretary, and any other officers the board considers necessary.

(b) If a director is appointed under Section 386.061(a)(4), that director shall serve as board president.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.067. QUORUM; DIRECTOR'S DUTIES; MANAGEMENT OF ZONE. Sections 49.053, 49.057, and 49.058, Water Code, apply to the board of directors of a development zone created under this chapter as if the zone were a district governed by those sections.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.068. MEETINGS AND NOTICE. (a) The board shall designate and establish a development zone office in the county.

(b) The board may establish regular meetings to conduct development zone business and may hold special meetings at other times as the business of a zone requires.

(c) Notice of the time, place, and purpose of any meeting of the board shall be given by posting a notice containing that information at a place convenient to the public within the development zone. A copy of the notice shall be furnished to the clerk or clerks of the county in which the zone is located, who shall post the notice on a bulletin board in the county courthouse used for that purpose.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.069. DIRECTOR'S COMPENSATION; BOND AND OATH OF OFFICE. Sections 375.067, 375.069, and 375.070 apply to directors of a development zone created under this chapter as if the zone were a municipal management district.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 386.101. GENERAL POWERS. (a) A development zone may acquire and dispose of projects and has the powers, authority, rights, and duties that are necessary to permit the accomplishment of purposes for which the zone was created.

(b) A development zone may provide for general promotion of and tourist advertising regarding the zone and its vicinity and for a marketing program to attract visitors. The zone may conduct those activities under contracts for professional services with persons or organizations the zone selects.

(c) A development zone may enter into a memorandum of understanding with any state agency, including an institution of higher education, to further the economic development of the zone.

(d) To the extent not inconsistent with this chapter, a development zone has the powers of:

(1) a municipal management district created under Chapter 375; and

(2) a county commissioners court under Section 381.004.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.102. DUTY TO EVALUATE AVAILABLE FINANCING OPTIONS. The board shall evaluate all options available to the development zone as alternatives to imposing a tax under Section 386.035, including:

(1) regional grants from federal and state agencies;

(2) local money from a creating body;

(3) money from charities;

(4) sales taxes for economic development in the development zone;

(5) use or impact fees on affected business entities;

(6) incentives for business entities that may benefit from the development zone;

(7) money provided by local governmental entities; and

(8) in-kind contributions.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.103. LIMIT ON DEVELOPMENT ZONE POWERS; OTHER LAWS

SUPERSEDE. (a) For purposes of this section, "district or zone" means:

(1) a federal enterprise zone;

(2) a state enterprise zone;

(3) a municipal management district; or

(4) any other special district, other than a development zone.

(b) This section applies only to a district or zone that contains territory included in the development zone's territory.

(c) The authority granted to a development zone under this chapter is not intended to duplicate the authority granted to a district or zone.

(d) This chapter does not limit the authority or jurisdiction of any district or zone.

(e) To the extent the laws of this chapter conflict with the laws of any other district or zone, the laws of the other district or zone shall control over this chapter.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.104. MONITORING. (a) The board shall monitor each person in a development zone that receives benefits available under this chapter.

(b) On the board's request, the Texas Workforce Commission or the comptroller's office shall provide to the board tax records of a person that receives benefits under this chapter.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.105. NEIGHBORHOOD REDEVELOPMENT ZONES. (a) The board may designate an area as a neighborhood redevelopment zone if the area is:

(1) adjacent to the development zone; and

(2) eligible for inclusion in the development zone under Sections 386.036(b) and (c).

(b) A development zone may exercise the powers available to it in an area designated by the board under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.106. SUITS. A development zone may, through its directors, sue and be sued in this state in the name of the development zone. Service of process in a suit may be had by serving a director.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Sec. 386.201. EXPENDITURES. A development zone's money may be disbursed only by check, draft, order, or other instrument signed by at least three directors. The general manager, treasurer, or other employee of the development zone, if authorized by resolution of the board, may sign checks, drafts, orders, or other instruments on any development zone operation account on behalf of the board.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.202. COMPETITIVE BIDDING; CONTRACT AWARD. Subchapter K, Chapter 375, applies to a development zone created under this chapter as if the zone were a municipal management district.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

SUBCHAPTER F. DISSOLUTION

Sec. 386.301. DISSOLUTION OF DEVELOPMENT ZONE BY CREATING BODY. (a) After a hearing, a creating body may dissolve a development zone if:

(1) the area no longer meets the criteria for designation under this chapter;

(2) the best interests of the creating body and the owners of property and interests in property in the zone will be served by dissolving the zone; and

(3) each creating body agrees by ordinance or order on the:

(A) proposition that the zone should be dissolved;

(B) disposition of zone assets; and

(C) assumption of liabilities by the creating bodies.

(b) The dissolution of a development zone does not affect the validity of a:

(1) tax incentive or regulatory relief granted or accrued before the removal; or

(2) bond issued under this chapter.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.302. DISSOLUTION BY BOARD REQUEST. A board may petition a creating body to dissolve the development zone under Section 386.301 if a majority of the board finds at any time:

(1) before the authorization of bonds or the final lending of its credit that the continuation of the development zone is impracticable or cannot be successfully and beneficially accomplished; or

(2) that all bonds of the development zone or other debts of the zone have been paid and the purposes of the zone have been accomplished.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

Sec. 386.303. TAXES. On dissolution of a development zone, any taxes levied on behalf of the zone are abolished.

Added by Acts 2001, 77th Leg., ch. 1390, Sec. 1, eff. June 16, 2001.

CHAPTER 387. COUNTY ASSISTANCE DISTRICT

Sec. 387.001. DEFINITION. In this chapter, "district" means a county assistance district created under this chapter.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.001 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), eff. Sept. 1, 2003.

Sec. 387.003. CREATION AND FUNCTIONS OF DISTRICT. (a) The commissioners court of the county may call an election on the question of creating a county assistance district under this chapter.

More than one county assistance district may be created in a county. A district may consist of noncontiguous tracts.

(a-1) A district may perform the following functions in the district:

(1) the construction, maintenance, or improvement of roads or highways;

(2) the provision of law enforcement and detention services;

(3) the maintenance or improvement of libraries, museums, parks, or other recreational facilities;

(4) the provision of services that benefit the public health or welfare, including the provision of firefighting and fire prevention services; or

(5) the promotion of economic development and tourism.

(b) The order calling the election must:

(1) define the boundaries of the district to include any portion of the county in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would not exceed the maximum combined rate of sales and use taxes imposed by political subdivisions of this state that is prescribed by Sections 321.101 and 323.101, Tax Code; and

(2) call for the election to be held within those boundaries.

(b-1) If the proposed district includes any territory of a municipality, the commissioners court shall send notice by certified mail to the governing body of the municipality of the commissioners court's intent to create the district. If the municipality has created a development corporation under Chapter 504 or 505, the commissioners court shall also send the notice to the board of directors of the corporation. The commissioners court must send the notice not later than the 60th day before the date the commissioners court orders the election. The governing body of the municipality may exclude the territory of the municipality from the proposed district by sending notice by certified mail to the commissioners court of the governing body's desire to exclude the municipal territory from the district. The governing body must send the notice not later than the 45th day after the date the governing body receives notice from the commissioners court under this subsection. The territory of a municipality that is excluded under this

subsection may subsequently be included in:

(1) the district in an election held under Subsection (f) with the consent of the municipality; or

(2) another district after complying with the requirements of this subsection and after an election under Subsection (f).

(c) The ballot at the election must be printed to permit voting for or against the proposition: "Authorizing the creation of the ____ County Assistance District No.___ (insert name of district) and the imposition of a sales and use tax at the rate of ____ percent (insert appropriate rate) for the purpose of financing the operations of the district."

(d) The district is created if a majority of the votes received at the election favor the creation of the district.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 1

(e) If a majority of the votes received at the election are against the creation of the district, the district is not created. The failure to approve the creation of a district under this subsection does not affect the authority of the county to call one or more elections on the question of creating one or more county assistance districts.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 21

(e) If a majority of the votes received at the election are against the creation of the district, the district is not created and the county at any time may call one or more elections on the question of creating one or more county assistance districts.

(f) The commissioners court may call an election to be held in an area of the county that is not located in a district created under this section to determine whether the area should be included in the district and whether the district's sales and use tax should be imposed in the area. An election may not be held in an area in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would exceed the maximum combined rate of sales and use taxes imposed by political subdivisions of this state that is prescribed by Sections 321.101 and 323.101, Tax Code.

(g) The area in which an election is held under Subsection (f) is included in the district and the sales and use tax is imposed if a

majority of the votes received at the election favor inclusion in the district and imposition of the sales and use tax.

(h) If more than one election to authorize a local sales and use tax is held on the same day in the area of a proposed district or an area proposed to be added to a district and if the resulting approval by the voters would cause the imposition of a local sales and use tax in any area to exceed the maximum combined rate of sales and use taxes of political subdivisions of this state that is prescribed by Sections 321.101 and 323.101, Tax Code, only a tax authorized at an election under this section may be imposed.

(i) In addition to the authority to include an area in a district under Subsection (f), the governing body of a district by order may include an area in the district on receipt of a petition or petitions signed by the owner or owners of the majority of the land in the area to be included in the district. If there are no registered voters in the area to be included in the district, no election is required.

(j) The commissioners court by order may exclude an area from the district if the district has no outstanding bonds payable wholly or partly from sales and use taxes and the exclusion does not impair any outstanding district debt or contractual obligation.

(k) A district annexing territory under this section may annex territory that is not adjacent or contiguous to the district.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.003 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1252 (H.B. 1937), Sec. 2, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 685 (H.B. 1720), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.010, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 21, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 479 (S.B. 1167), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1106 (H.B. 3795), Sec. 1, eff. June 14, 2013.
Acts 2017, 85th Leg., R.S., Ch. 827 (H.B. 1716), Sec. 1, eff. September 1, 2017.

Sec. 387.0031. INCLUSION OF ROADS OR COUNTY PROPERTY IN CERTAIN DISTRICTS. (a) This section applies only to a district created by a county with a population of more than 800,000 that borders a county with a population of more than four million.

(b) The governing body of a district by order may include in the district a portion of a road or public right-of-way, including associated drainage areas, or county-owned property that is being used for a public purpose if:

(1) the road, public right-of-way, or county-owned property is located in a municipality located in the county that created the district; and

(2) the municipality consents to the inclusion.

(b-1) An election is not required to approve an order described by Subsection (b).

(c) The district may use money available to the district to perform any function of the district under this chapter on a road or public right-of-way, including associated drainage areas, or any property included in the district in accordance with this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 442 (H.B. 2599), Sec. 1, eff. June 15, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 614 (H.B. 3504), Sec. 1, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 614 (H.B. 3504), Sec. 2, eff. September 1, 2017.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 191, eff. September 1, 2023.

Sec. 387.004. POLITICAL SUBDIVISION. A district is a political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.004 by Acts 2003, 78th

Leg., ch. 1275, Sec. 2(110), eff. Sept. 1, 2003.

Sec. 387.005. GOVERNING BODY. (a) The commissioners court of the county in which the district is created by order shall provide that:

(1) the commissioners court is the governing body of the district; or

(2) the commissioners court shall appoint a governing body of the district.

(b) A member of the governing body of the district is not entitled to compensation for service but is entitled to reimbursement for actual and necessary expenses.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 22, eff. June 17, 2011

(c) A board of directors appointed by the commissioners court under this section shall consist of five directors who serve staggered terms of two years. To be eligible to serve as a director, a person must be at least 18 years of age and a resident of the county in which the district is located. The initial directors shall draw lots to achieve staggered terms, with three of the directors serving one-year terms and two of the directors serving two-year terms.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 2, eff. June 17, 2011

(c) A board of directors appointed by the commissioners court under this section shall consist of five directors who serve staggered terms of two years. To be eligible to serve as a director, a person must be a resident of the county in which the district is located. The initial directors shall draw lots to achieve staggered terms, with three of the directors serving one-year terms and two of the directors serving two-year terms.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.005 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 22, eff.

June 17, 2011.

Sec. 387.006. GENERAL POWERS OF DISTRICT. (a) A district may:

(1) perform any act necessary to the full exercise of the district's functions;

(2) accept a grant or loan from:

(A) the United States;

(B) an agency or political subdivision of this state; or

(C) a public or private person;

(3) acquire, sell, lease, convey, or otherwise dispose of property or an interest in property under terms determined by the district;

(4) employ necessary personnel;

(5) adopt rules to govern the operation of the district and its employees and property; and

(6) enter into agreements with municipalities necessary or convenient to achieve the district's purposes, including agreements regarding the duration, rate, and allocation between the district and the municipality of sales and use taxes.

(b) A district may contract with a public or private person to perform any act the district is authorized to perform under this chapter.

(c) A district may not levy an ad valorem tax.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.006 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 23, eff. June 17, 2011.

Sec. 387.007. SALES AND USE TAX. (a) A district by order may impose a sales and use tax under this chapter to finance the operations of the district only if the tax is approved at an election held under Section 387.003.

(b) A district may not adopt a sales and use tax under this chapter if the adoption of the tax would result in a combined tax rate of all local sales and use taxes that would exceed the maximum combined rate prescribed by Sections 321.101 and 323.101, Tax Code, in any location in the district.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.007 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), 3(36), eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 4, eff. June 17, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 24, eff. June 17, 2011.

Sec. 387.008. TAX CODE APPLICABLE. (a) Chapter 323, Tax Code, governs the imposition, computation, administration, collection, and remittance of a tax authorized under this chapter except as inconsistent with this chapter.
(b) Section 323.101(b), Tax Code, does not apply to a tax authorized by this chapter.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.008 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), eff. Sept. 1, 2003.

Sec. 387.009. TAX RATE. The rate of a tax adopted under this chapter must be in increments of one-eighth of one percent.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.009 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 5, eff. June 17, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 25, eff. June 17, 2011.

Sec. 387.010. REPEAL OR RATE CHANGE. (a) A district that has adopted a sales and use tax under this chapter may, by order and subject to Section 387.007(b):

(1) reduce the rate of the tax or repeal the tax without an election, except that the district may not repeal the sales and use tax or reduce the rate of the sales and use tax below the amount pledged to secure payment of an outstanding district debt or contractual obligation;

(2) increase the rate of the sales and use tax, if the increased rate of the sales and use tax will not exceed the rate approved at an election held under Section 387.003; or

(3) increase the rate of the sales and use tax to a rate that exceeds the rate approved at an election held under Section 387.003 after the increase is approved by a majority of the votes received in the district at an election held for that purpose.

(b) The tax may be changed under Subsection (a) in one or more increments of one-eighth of one percent.

(c) The ballot for an election to increase the tax shall be printed to permit voting for or against the proposition: "The increase of a sales and use tax for the ____ County Assistance District No. ___ (insert name of district) from the rate of ____ percent (insert appropriate rate) to the rate of ____ percent (insert appropriate rate)."

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1341, Sec. 29, eff. June 17, 2011.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.010 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), 3(37), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 6, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 8, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 26, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 29, eff. June 17, 2011.

Sec. 387.011. IMPOSITION OF TAX. (a) If the district adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items in the district at the rate approved at the election.

(b) There is also imposed an excise tax on the use, storage, or other consumption in the district of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective in the district. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sale price of the tangible personal property.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.011 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), eff. Sept. 1, 2003.

Sec. 387.012. EFFECTIVE DATE OF TAX. The adoption of the tax, the increase or reduction of the tax rate, or the repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the comptroller receives a copy of the order of the district's governing body adopting, increasing, reducing, or repealing the tax.

Added by Acts 1999, 76th Leg., ch. 1283, Sec. 1, eff. June 18, 1999. Renumbered from Local Government Code Sec. 384.012 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(110), eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 396 (S.B. 520), Sec. 7, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 27, eff. June 17, 2011.

Sec. 387.013. DISSOLUTION. (a) The governing body of a district may petition the commissioners court of the county in which the district was created to dissolve the district if a majority of the governing body finds the performance of the district's functions cannot be accomplished to the benefit of the residents and owners of land in the district.

(b) The commissioners court of a county shall hold a hearing on the dissolution of a district if:

(1) the commissioners court receives a petition under Subsection (a); or

(2) in a district in which the commissioners court acts as the governing body of the district, a majority of the commissioners court finds that the performance of the district's functions cannot be accomplished to the benefit of the residents and owners of land in the district.

(c) A hearing under Subsection (b) must be held not later than the 61st day after the commissioners court receives the petition under Subsection (b)(1) or makes the finding described by Subsection (b)(2).

(d) The commissioners court shall give notice of the hearing as required by law and include in the notice information regarding the right of the residents and owners of land in the district to appear and present evidence for or against the district's dissolution.

(e) The commissioners court shall order the district dissolved and the district's assets transferred to the county if:

(1) the commissioners court unanimously votes that dissolution of the district is in the best interests of the district, the county in which the district is located, and the residents and owners of land in the district; and

(2) the district has no outstanding bonds payable wholly or partly from district revenue and the dissolution does not impair any outstanding district debt or contractual obligation.

Added by Acts 2019, 86th Leg., R.S., Ch. 1053 (H.B. 956), Sec. 1, eff. September 1, 2019.

CHAPTER 388. GRANT PROGRAM FOR UNINCORPORATED COMMUNITIES IN CERTAIN COUNTIES

Sec. 388.001. APPLICABILITY. This chapter applies only to a county that:

(1) has a population of not more than 3,000;

(2) is adjacent to at least three counties with populations of less than 10,000; and

(3) is located on an international border.

Added by Acts 2023, 88th Leg., R.S., Ch. 492 (H.B. 1330), Sec. 1, eff. June 10, 2023.

Sec. 388.002. IMPROVEMENT PROJECT GRANT PROGRAM. (a) The commissioners court of a county by order may establish and implement a grant program for the purpose of funding public improvement projects to benefit unincorporated communities located in the county.

(b) A public improvement project includes:

(1) the acquisition, construction, or improvement of:

(A) sidewalks, streets, roads, or other transportation infrastructure;

(B) water, wastewater, or drainage facilities or improvements; or

(C) other public facilities or improvements; and

(2) special supplemental services for improvement and promotion of the area, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement.

Added by Acts 2023, 88th Leg., R.S., Ch. 492 (H.B. 1330), Sec. 1, eff. June 10, 2023.

Sec. 388.003. GIFTS, GRANTS, AND DONATIONS. The county may apply for and accept a gift, grant, or donation from any source to fund a public improvement project described by Section 388.002.

Added by Acts 2023, 88th Leg., R.S., Ch. 492 (H.B. 1330), Sec. 1, eff. June 10, 2023.

SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 391. REGIONAL PLANNING COMMISSIONS

Sec. 391.001. PURPOSE. (a) The purpose of this chapter is to encourage and permit local governmental units to:

(1) join and cooperate to improve the health, safety, and general welfare of their residents; and

(2) plan for the future development of communities, areas, and regions so that:

(A) the planning of transportation systems is improved;

(B) adequate street, utility, health, educational, recreational, and other essential facilities are provided as the

communities, areas, and regions grow;

(C) the needs of agriculture, business, and industry are recognized;

(D) healthful surroundings for family life in residential areas are provided;

(E) historical and cultural values are preserved; and

(F) the efficient and economical use of public funds is commensurate with the growth of the communities, areas, and regions.

(b) The general purpose of a commission is to make studies and plans to guide the unified, far-reaching development of a region, eliminate duplication, and promote economy and efficiency in the coordinated development of a region.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.002. DEFINITIONS. In this chapter:

(1) "Governmental unit" means a county, municipality, authority, district, or other political subdivision of the state.

(2) "Commission" means a regional planning commission, council of governments, or similar regional planning agency created under this chapter.

(3) "Region" means a geographic area consisting of a county or two or more adjoining counties that have, in any combination:

(A) common problems of transportation, water supply, drainage, or land use;

(B) similar, common, or interrelated forms of urban development or concentration; or

(C) special problems of agriculture, forestry, conservation, or other matters.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.003. CREATION. (a) Any combination of counties or municipalities or of counties and municipalities may agree, by ordinance, resolution, rule, order, or other means, to establish a commission.

(b) The agreement must designate a region for the commission that:

(1) consists of territory under the jurisdiction of the

counties or municipalities, including extraterritorial jurisdiction; and

(2) is consistent with the geographic boundaries for state planning regions or subregions that are delineated by the governor and that are subject to review and change at the end of each state biennium.

(c) A commission is a political subdivision of the state.

(d) This chapter permits participating governmental units the greatest possible flexibility to organize a commission most suitable to their view of the region's problems.

(e) The counties and municipalities making the agreement may join in the exercise of, or in acting cooperatively in regard to, planning, powers, and duties as provided by law for any or all of the counties and municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.004. PLANS AND RECOMMENDATIONS. (a) A commission may plan for the development of a region and make recommendations concerning major thoroughfares, streets, traffic and transportation studies, bridges, airports, parks, recreation sites, school sites, public utilities, land use, water supply, sanitation facilities, drainage, public buildings, population density, open spaces, and other items relating to the commission's general purposes.

(b) A plan or recommendation of a commission may be adopted in whole or in part by the governing body of a participating governmental unit.

(c) A commission may assist a participating governmental unit in:

(1) carrying out a plan or recommendation developed by the commission; and

(2) preparing and carrying out local planning consistent with the general purpose of this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.0041. MENTAL HEALTH RESOURCES PLAN FOR FIRST RESPONDER INVOLVED IN CRITICAL INCIDENT. (a) In this section:

(1) "Council of governments" means a regional planning

commission for a state planning region created under this chapter.

(2) "Critical incident" means an incident involving a first responder that occurs while the first responder is performing official duties and that results in serious bodily injury to the first responder or poses a substantial risk of serious bodily injury or death to the first responder or of serious harm to the first responder's mental health or well-being.

(3) "First responder" means:

(A) a peace officer described by Article 2A.001, Code of Criminal Procedure;

(B) an individual included as fire protection personnel by Section 419.021, Government Code; and

(C) an individual included as emergency medical services personnel by Section 773.003, Health and Safety Code.

(b) The Texas Division of Emergency Management, in coordination with the Health and Human Services Commission and the Department of State Health Services, shall:

(1) develop a mental health resources plan to address the mental health needs of first responders following a critical incident; and

(2) provide the plan to each local emergency management director in the state.

(c) A plan developed under Subsection (b):

(1) must identify and provide for:

(A) education and training to a first responder prior to a critical incident on topics including:

(i) the potential psychological impact that being involved in an incident may have on the first responder; and

(ii) resources available to the first responder to address the psychological impact of an incident, including mental health counseling, peer support programs, and stress management practices; or

(B) a list of recommended providers located within the territory of the council of governments who can provide the education and training described by Paragraph (A);

(2) may recommend that an employer of a first responder:

(A) create a process to conduct a critical incident stress debriefing following an incident; and

(B) create a peer support program to support the first responder following an incident; and

(3) may include any other recommendation the council of governments considers appropriate to address the mental health needs of a first responder following a critical incident.

(d) Each political subdivision that receives a plan under this section shall:

(1) implement the plan; and

(2) share the plan with each council of governments that has jurisdiction over the political subdivision to ensure regional plan integration and awareness.

Added by Acts 2025, 89th Leg., R.S., Ch. 361 (H.B. 33), Sec. 15, eff. September 1, 2025.

Sec. 391.005. POWERS. (a) A commission may contract with a participating governmental unit to perform a service if:

(1) the participating governmental unit could contract with a private organization without governmental powers to perform the service; and

(2) the contract to perform the service does not impose a cost or obligation on a participating governmental unit not a party to the contract.

(b) A commission may:

(1) purchase, lease, or otherwise acquire property;

(2) hold or sell or otherwise dispose of property;

(3) employ staff and consult with and retain experts; or

(4)(A) provide retirement benefits for its employees through a jointly contributory retirement plan with an agency, firm, or corporation authorized to do business in the state; or

(B) participate in the Texas Municipal Retirement System, the Employees Retirement System of Texas, or the Texas County and District Retirement System when those systems by legislation or administrative arrangement permit participation.

(c) Participating governmental units may by joint agreement provide for the manner of cooperation between participating governmental units and provide for the methods of operation of the commission, including:

(1) employment of staff and consultants;

(2) apportionment of costs and expenses;

(3) purchase of property and materials; and

(4) addition of a governmental unit.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.006. GOVERNING BODY OF COMMISSION. (a) Except as provided by Subsection (c), participating governmental units may by joint agreement determine the number and qualifications of members of the governing body of a commission.

(b) At least two-thirds of the members of a governing body of a commission must be elected officials of participating counties or municipalities.

(c) The governing body of a commission of a region that is consistent with the geographic boundaries of a state planning region shall offer an ex officio, nonvoting membership on the governing body to a member of the legislature who represents a district located wholly or partly in the region of the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 790 (H.B. 2160), Sec. 1, eff. June 17, 2011.

Sec. 391.007. DETAIL OR LOAN OF AN EMPLOYEE. (a) A state agency or a governmental unit may detail or loan an employee to a commission.

(b) During the period of the detail or loan, the employee continues to receive salary, leave, retirement, and other personnel benefits from the lending agency or governmental unit but works under the direction and supervision of the commission.

(c) The detail or loan of an employee may be on a reimbursable or nonreimbursable basis as agreed by the lending agency or governmental unit and the commission. The detail or loan expires at the mutual consent of the lending agency or governmental unit and the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.008. REVIEW AND COMMENT PROCEDURES. (a) In a state

planning region or subregion in which a commission has been organized, the governing body of a governmental unit within the region or subregion, whether or not a member of the commission, shall submit to the commission for review and comment an application for a loan or grant-in-aid from a state agency, and from a federal agency if the project is one for which the federal government requires review and comment by an areawide planning agency, before the application is filed with the state or federal government.

(b) For federally aided projects for which an areawide review is required by federal law or regulation, the commission shall review the application from the standpoint of consistency with regional plans and other considerations as specified in federal or state regulations and shall enter its comments on the application and return it to the originating governmental unit.

(c) For other federally aided projects and for state-aided projects, the commission shall advise the governmental unit on whether the proposed project for which funds are requested has regionwide significance.

(d) If the proposed project has regionwide significance, the commission shall determine whether it is in conflict with a regional plan or policy. It may consider whether the proposed project is properly coordinated with other existing or proposed projects within the region. The commission shall record on the application its view and comments, transmit the application to the originating governmental unit, and send a copy to the concerned federal or state agency.

(e) If the proposed project does not have regionwide significance, the commission shall certify that it is not in conflict with a regional plan or policy.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.009. ROLE OF STATE AUDITOR, GOVERNOR, AND STATE AGENCIES. (a) To protect the public interest and promote the efficient use of public funds, the governor, with the technical assistance of the state auditor, may draft and adopt:

(1) rules relating to the operation and oversight of a commission;

(2) rules relating to the receipt or expenditure of funds

by a commission, including:

(A) restrictions on the expenditure of any portion of commission funds for certain classes of expenses; and

(B) restrictions on the maximum amount of or percentage of commission funds that may be expended on a class of expenses, including indirect costs or travel expenses;

(3) annual reporting requirements for a commission;

(4) annual audit requirements on funds received or expended by a commission from any source;

(5) rules relating to the establishment and use of standards by which the productivity and performance of each commission can be evaluated; and

(6) guidelines that commissions and governmental units shall follow in carrying out the provisions of this chapter relating to review and comment procedures.

(a-1) The governor may draft and adopt rules under Subsection (a) using negotiated rulemaking procedures under Chapter 2008, Government Code.

(a-2) Based on a risk assessment performed by the state auditor and subject to the legislative audit committee's approval for inclusion in the audit plan under Section 321.013, Government Code, the state auditor's office shall assist the governor as provided by Subsection (a).

(b) The governor and state agencies shall provide technical information and assistance to the members and staff of a commission to increase, to the greatest extent feasible, the capability of the commission to discharge its duties and responsibilities prescribed by this chapter and to ensure compliance with the rules, requirements, and guidelines adopted under Subsection (a).

(c) In carrying out their planning and program development responsibilities, state agencies shall, to the greatest extent feasible, coordinate planning with commissions to ensure effective and orderly implementation of state programs at the regional level.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 281, Sec. 16, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 694, Sec. 1, eff. June 13, 2001; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 9.01, 9.02, eff. Jan. 11, 2004.

Sec. 391.0091. STATE AGENCY CONSULTATION WITH REGIONAL PLANNING COMMISSIONS. (a) In this section, "service" includes a program.

(b) If a state agency determines that a service provided by that agency should be decentralized to a multicounty region, the agency shall use a state planning region or combination of regions for the decentralization.

(c) A state agency that decentralizes a service provided to more than one public entity or nonprofit organization in a region shall consult with the commission for that region in planning the decentralization. The commission shall consult with each affected public entity or nonprofit organization.

(d) A state agency, in planning for decentralization of a service in a region, shall consider using a commission for that service to:

(1) achieve efficiencies through shared costs for:

(A) executive management;

(B) administration;

(C) financial accounting and reporting;

(D) facilities and equipment;

(E) data services; and

(F) audit costs;

(2) improve the planning, coordination, and delivery of services by coordinating the location of services;

(3) increase accountability and local control by placing a service under the oversight of the commission; and

(4) improve financial oversight through the auditing and reporting required under this chapter.

(e) This section does not apply to a service:

(1) that continues to be operated by a state agency through a regional administrative office of that agency; or

(2) for which the state agency determines that a law, rule, or program policy makes use of the geographic area of a single county or adjacent counties more appropriate.

Added by Acts 2003, 78th Leg., ch. 718, Sec. 1, eff. Sept. 1, 2003.

Sec. 391.0095. AUDIT AND REPORTING REQUIREMENTS. (a) The audit and reporting requirements under Section 391.009(a) shall include a requirement that a commission annually report to the state

auditor:

(1) the amount and source of funds received by the commission;

(2) the amount and source of funds expended by the commission;

(3) an explanation of any method used by the commission to compute an expense of the commission, including computation of any indirect cost of the commission;

(4) a report of the commission's productivity and performance during the annual reporting period;

(5) a projection of the commission's productivity and performance during the next annual reporting period;

(6) the results of an audit of the commission's affairs prepared by an independent certified public accountant; and

(7) a report of any assets disposed of by the commission.

(b) The annual audit of a commission may be commissioned by the commission or at the direction of the governor's office, as determined by the governor's office, and shall be paid for from the commission's funds.

(c) A commission shall submit any other report or an audit to the state auditor and the governor.

(d) If a commission fails to submit a report or audit required under this section or is determined by the state auditor to have failed to comply with a rule, requirement, or guideline adopted under Section 391.009, the state auditor shall report the failure to the governor's office. The governor may, until the failure is corrected:

(1) appoint a receiver to operate or oversee the commission; or

(2) withhold any appropriated funds of the commission.

(e) A commission shall send to the governor, the state auditor, and the Legislative Budget Board a copy of each report and audit required under this section or under Section 391.009. The state auditor may review each audit and report, subject to a risk assessment performed by the state auditor and to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, Government Code. If the state auditor reviews the audit or report, the state auditor must be given access to working papers and other supporting documentation that the state auditor determines is necessary to perform the review. If the state auditor finds significant issues involving the administration or

operation of a commission or its programs, the state auditor shall report its findings and related recommendations to the legislative audit committee, the governor, and the commission. The governor and the legislative audit committee may direct the commission to prepare a corrective action plan or other response to the state auditor's findings or recommendations. The legislative audit committee may direct the state auditor to perform any additional audit or investigative work that the committee determines is necessary.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 17, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 742, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 785, Sec. 66, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 9.03, eff. Jan. 11, 2004. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 395 (S.B. 790), Sec. 1, eff. September 1, 2019.

Sec. 391.00951. REPORT TO SECRETARY OF STATE. (a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code;

(2) is located in a county any part of which is within 62 miles of an international border; and

(3) consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(b) To assist the secretary of state in preparing the report required under Section 405.021, Government Code, the commission on a quarterly basis shall provide a report to the secretary of state detailing any projects funded by the commission that provide assistance to colonias.

(c) The report must include:

(1) a description of any relevant projects;

(2) the location of each project;

(3) the number of colonia residents served by each project;

(4) the exact amount spent or the anticipated amount to be spent on each colonia served by each project;

(5) a statement of whether each project is completed and, if not, the expected completion date of the project; and

(6) any other information, as determined appropriate by the secretary of state.

(d) The commission shall require an applicant for funds administered by the commission to submit to the commission a colonia classification number, if one exists, for each colonia that may be served by the project proposed in the application. If a colonia does not have a classification number, the commission may contact the secretary of state or the secretary of state's representative to obtain the classification number. On request of the commission, the secretary of state or the secretary of state's representative shall assign a classification number to the colonia.

Added by Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 19, eff. June 15, 2007.

Sec. 391.010. CONFLICT OF INTEREST IN PROVISION OF LEGAL SERVICES. (a) A member of the governing body of a commission or a person who provides legal services to a commission may not:

(1) provide legal representation before or to the commission on behalf of a governmental unit located, in whole or in part, within the boundaries of the commission; or

(2) be a shareholder, partner, or employee of a law firm that provides those legal services to the governmental unit.

(b) A person who violates Subsection (a) may not receive compensation or reimbursement for expenses from the commission or governmental unit.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.011. FUNDS. (a) A commission does not have power to tax.

(b) A participating governmental unit may appropriate funds to a commission for the costs and expenses required in the performance of its purposes.

(c) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental unit, the state, the federal government, or other source.

(d) A commission may not expend funds for an automobile

allowance for a member of the governing body of the commission if the member holds another state, county, or municipal office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 713, Sec. 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 280, Sec. 18, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1498, Sec. 6, eff. Sept. 1, 1999.

Sec. 391.0115. RESTRICTIONS ON COMMISSION TRAVEL COSTS. (a) In reimbursing commission personnel for travel expenses, a commission may not expend funds for travel in excess of the amount of money that may be expended for state personnel under the General Appropriations Act or travel regulations adopted by the comptroller, including any restrictions on mileage reimbursement, per diem, and lodging reimbursement rates.

(b) A member of the governing body of a commission may not be reimbursed from state-appropriated funds, including federal funds, for official travel in an amount in excess of the rates set for travel by state board and commission members. If a hotel is unable or unwilling to provide a commission or its officers or employees a rate equivalent to the rate provided to state employees or if a negotiated conference rate for an officially sanctioned conference or meeting exceeds the applicable state reimbursement rate for lodging, a commission may reimburse for lodging expenses at the rates of the expenses incurred.

(c) A commission may not expend any funds for the purchase of alcoholic beverages or entertainment.

(d) A commission may purchase goods or a service only if the commission complies with the same provisions for purchasing goods or a service that are equivalent to the provisions, including Chapter 252, applying to a local government.

(e) A commission may not spend an amount more than 15 percent of the commission's total expenditures on the commission's indirect costs. For the purposes of this subsection, the commission's capital expenditures and any subcontracts, pass-throughs, or subgrants may not be considered in determining the commission's total direct costs. In this subsection, "pass-through funds" means funds, including subgrants or subcontracts, that are received by a commission from the federal or state government or other grantor for which the commission

serves merely as a cash conduit and has no administrative or financial involvement in the program, such as contractor selection, contract provisions, contract methodology payment, or contractor oversight and monitoring.

(f) In this section, "indirect costs" means costs that are not directly attributable to a single action of a commission. The governor shall use the federal Office of Management and Budget circulars A-87 and A-122 or use any rules relating to the determination of indirect costs adopted under Chapter 783, Government Code, in administering this section.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 19, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1498, Sec. 7, eff. Sept. 1, 1999.

Sec. 391.0116. RESTRICTIONS ON EMPLOYMENT. (a) An employee of a commission when using state-appropriated funds, including federal funds, is subject to the same rules regarding lobbying and other advocacy activities as an employee of any state agency.

(b) The nepotism provisions of Chapter 573, Government Code, apply to a commission.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 7, eff. Sept. 1, 1999.

Sec. 391.0117. SALARY SCHEDULES. (a) For each fiscal year, a commission shall adopt a salary schedule containing a classification salary schedule for classified positions and identifying and specifying the salaries for positions exempt from the classification salary schedule.

(b) The salary schedule adopted by the commission may not exceed, for classified positions, the state salary schedule for classified positions as prescribed by the General Appropriations Act adopted by the most recent legislature. A commission may adopt a salary schedule that is less than the state salary schedule.

(c) A salary for a position classified under the salary schedule may not exceed the state salary that has been approved by the state auditor's office and paid by the state for comparable work.

(d) A position may only be exempted from the classification salary schedule adopted by the commission if the exemption and the amount of salary paid for the exempt position is within the range

determined appropriate for state exempt positions by the state auditor.

(e) A commission shall submit to the state auditor the commission's salary schedule, including the salaries of all exempt positions, not later than the 45th day before the date of the beginning of the commission's fiscal year. If the state auditor, subject to the legislative audit committee's approval for inclusion in the audit plan under Section 321.013, Government Code, has recommendations to improve a commission's salary schedule or a portion of the schedule, the state auditor shall report the recommendations to the governor's office. The governor's office may not allow the portion of the schedule for which the state auditor has recommendations to go into effect until revisions or explanations are given that are satisfactory to the governor based on recommendations from the state auditor.

(f) This section does not apply to a commission if the most populous county that is a member of the commission has an actual average weekly wage that exceeds the state actual average weekly wage by 20 percent or more for the previous year as determined by the Texas Workforce Commission in its County Employment and Wage Information Report.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 26, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 9.04, eff. Jan. 11, 2004.

Sec. 391.012. STATE FINANCIAL ASSISTANCE. (a) To qualify for state financial assistance, a commission must:

(1) have funds available annually from sources other than federal or state governments equal to or greater than half of the state financial assistance for which the commission applies;

(2) comply with the regulations of the agency responsible for administering this chapter;

(3) offer membership in the commission to all counties and municipalities included in the state planning region;

(4) include any combination of counties or municipalities having a combined population equal to or greater than 60 percent of the population of the state planning region;

(5) include at least one full county;

(6) encompass an area that is economically and geographically interrelated and forms a logical planning region; and

(7) be engaged in a regional planning process.

(b) Within funds available and in accordance with rules issued by the office of the governor, a commission may use state financial assistance to:

(1) promote intergovernmental cooperation by coordinating regional plans and programs with member governments, nonmember governments, state agencies which impact the region, and, where state agencies have regional office structures, state agency regional offices;

(2) function as a regional review agency under the Texas Review and Comment System pursuant to state and federal statutes and regulations;

(3) leverage commission dues, local funds, and state funds to obtain maximum federal funding assistance and private funding for the state and the region;

(4) provide assistance to local governments;

(5) assist state agencies and organizations in developing local and regional input for state plans, in planning for the successful implementation of state programs at the regional level as required in Section 391.009(c), in preparing for and conducting state-sponsored hearings and public meetings, and in disseminating state-generated information and educational materials; and

(6) provide assistance to state agencies and organizations in developing, implementing, and assessing state programs and services within the region as needed.

(c) A commission that qualifies for state financial assistance is eligible annually for an amount determined as follows:

(1) $1,000 for each dues-paying member county;

(2) an additional 10 cents per capita for the population of dues-paying member counties and municipalities; and

(3) the amount necessary to assure that the total amount available to the commission is no less than $50,000.

(d) If state appropriations are more than the amount necessary to fund the level of financial assistance generated by this formula, the governor shall increase the funding for which each commission is eligible in proportion to the amount it would have been eligible to receive in Subsection (c).

(e) If state appropriations are less than the amount necessary

to fund the level of financial assistance generated by the formula in Subsection (c) above:

(1) No commission shall receive less than annual financial assistance of $50,000, as long as financial assistance available to all commissions remains at or above the level of assistance allocated in fiscal year 2003.

(2) If available annual financial assistance is less than the amount allocated in fiscal year 2003, assistance to all commissions shall be reduced proportionally from the assistance they would have received at the fiscal year 2003 funding level.

(f) For the purposes of this section, the population of a county is the population outside all dues-paying member municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1137, Sec. 1, eff. June 20, 2003.

Sec. 391.013. INTERSTATE COMMISSIONS. (a) With the advance approval of the governor, a commission that borders another state may:

(1) join with a similar commission or planning agency in a contiguous area of the bordering state to form an interstate commission; or

(2) permit a similar commission or planning agency in a contiguous area of the bordering state to participate in planning functions.

(b) Funds provided a commission may be commingled with funds provided by the government of the bordering state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.014. INTERNATIONAL AREAS. With the advance approval of the governor, a commission that borders the Republic of Mexico may spend funds in cooperation with an agency, constituent state, or local government of the Republic of Mexico for planning studies encompassing areas lying both in this state and in contiguous territory of the Republic of Mexico.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.015. WITHDRAWAL FROM COMMISSION. A participating governmental unit may withdraw from a commission by majority vote of its governing body unless it has been otherwise agreed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 391.016. JOINING COMMISSION AFTER WITHDRAWAL. A governmental unit that has withdrawn from a commission under Section 391.015 may join another commission that is adjacent to the unit if:

(1) the transfer is approved by the governing bodies of:

(A) the unit; and

(B) the commission the unit wishes to join;

(2) the governmental unit submits a written request for approval of the transfer to the governor that:

(A) is in the form and manner prescribed by the office of the governor; and

(B) demonstrates the transfer furthers the purpose of this chapter as described by Section 391.001; and

(3) the governor approves the transfer.

Added by Acts 2019, 86th Leg., R.S., Ch. 1237 (H.B. 2736), Sec. 1, eff. June 14, 2019.

CHAPTER 392. HOUSING AUTHORITIES ESTABLISHED BY MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 392.001. SHORT TITLE. This chapter may be cited as the Housing Authorities Law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.002. DEFINITIONS. In this chapter:

(1) "Authority" or "housing authority" means a public corporation created under this chapter.

(2) "Bond" means a bond, note, interim certificate, debenture, or other obligation issued by an authority under this

chapter.

(3) "Clerk of the municipality" means the clerk of a municipality or the officer given the duties customarily imposed on the clerk.

(4) "Farmers of low income" means persons or families who, at the time of their admission to occupancy in housing of a housing authority:

(A) live in unsafe or unsanitary housing;

(B) earn their principal income from operating or working on a farm; and

(C) had an aggregate average annual net income for the preceding three years that is less than the amount determined by the housing authority to be necessary, in its area of operation, to obtain, without financial assistance, decent, safe, and sanitary housing without overcrowding.

(5) "Federal government" includes the United States, the Department of Housing and Urban Development, and any other agency or instrumentality, corporate or otherwise, of the United States.

(6) "Housing project" means a work or other undertaking to:

(A) demolish, clear, or remove buildings from a slum area, including a work or other undertaking to adapt an area for use as a park, for another recreational or community purpose, or for any other public purpose;

(B) provide decent, safe, and sanitary urban or rural housing for persons of low income, including buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, and parks, or for other purposes, including site preparation, gardening, administrative, community, health, recreational, educational, or welfare purposes;

(C) accomplish a combination of the purposes described by Paragraphs (A) and (B); or

(D) plan buildings and other improvements, acquire property, demolish structures, construct, reconstruct, alter, and repair improvements, and perform other related work.

(7) "Mayor" means the mayor of a municipality or the officer given the duties customarily imposed on the mayor or executive head of a municipality.

(8) "Obligee of the authority" or "obligee" includes:

(A) a bondholder;

(B) a trustee of a bondholder;

(C) a lessor demising to the authority any property used in connection with a housing project;

(D) an assignee of the interest, or part of the interest, of a lessor demising to the authority any property used in connection with a housing project; and

(E) the federal government if it is a party to a contract with the authority.

(9) "Persons of low income" means families or persons who lack the amount of income that an authority considers necessary to live, without financial assistance, in decent, safe, and sanitary housing without overcrowding.

(10) "Real property" means land, including improvements, fixtures, and other property appurtenant to or used in connection with the land and means any other estate, interest, or legal or equitable right in the land, improvement, fixture, or appurtenant property, including a term for years, a lien of any kind, and any indebtedness secured by a lien.

(11) "Slum" means an area that is predominated by housing that is detrimental to safety, health, and morals because of one or more of the following factors:

(A) dilapidation;

(B) overcrowding;

(C) faulty arrangement or design; or

(D) lack of ventilation, light, or sanitary facilities.

(12) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase bonds, purchase or sale agreement, or commitment or other contract or agreement authorized and approved by the governing body of an issuer in connection with the authorization, issuance, security, exchange, payment, purchase, or redemption of bonds or interest on bonds or both.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 677, Sec. 1, eff. Aug. 28, 1989.

Sec. 392.003. LEGISLATIVE FINDINGS. The legislature finds that:

(1) there is a shortage of safe or sanitary housing at rents that persons of low income can afford that forces persons of low income to live in unsanitary or unsafe housing and in overcrowded and congested housing;

(2) these housing conditions are responsible for an increase in and spread of disease and crime, are a menace to the health, safety, morals, and welfare of the residents of the state, impair economic values, and necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities;

(3) the unsafe and unsanitary housing cannot be cleared and the shortage of safe and sanitary housing for persons of low income cannot be relieved by private enterprise;

(4) the construction of housing projects for persons of low income would not be competitive with private enterprise;

(5) the clearance, replanning, and reconstruction of the areas in which unsanitary or unsafe housing exists and the providing of safe and sanitary housing for persons of low income are public uses and purposes and governmental functions of state concern for which public money may be spent and private property acquired;

(6) it is in the public interest that work on low income housing projects commence as soon as possible to relieve the unemployment emergency; and

(7) this chapter is necessary in the public interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.004. OPERATION NOT FOR PROFIT. It is the policy of the state that a housing authority manage and operate its housing projects in an efficient manner to enable it to set rentals at the lowest possible rates consistent with providing decent, safe, and sanitary housing and that a housing authority may not construct or operate a project for profit or as a source of revenue to a municipality or county. For this purpose, an authority shall set rentals at a rate not higher than the rate necessary, together with other available money, revenue, income, and receipts, to produce revenue that is sufficient to:

(1) pay the principal and interest as it becomes due on

bonds of the authority;

(2) meet the cost of and provide for maintaining and operating the projects, including insurance;

(3) pay the administrative expenses of the authority;

(4) create, to the extent determined necessary and advisable by the authority, a reserve for the bonds and to maintain the reserve; and

(5) create, to the extent determined necessary and advisable by the authority, a capital and improvements fund to be used by the authority to accomplish the public purposes of this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 677, Sec. 8, eff. Aug. 28, 1989.

Sec. 392.005. TAX EXEMPTION. (a) The property of an authority is public property used for essential public and governmental purposes. The authority and the authority's property are exempt from all taxes and special assessments of a municipality, a county, another political subdivision, or the state.

(b) If a municipality, county, or political subdivision furnishes improvements, services, or facilities for a housing project, an authority may, in lieu of paying taxes or special assessments, agree to reimburse in payments to the municipality, county, or political subdivision an amount not greater than the estimated cost to the municipality, county, or political subdivision for the improvements, services, or facilities.

(c) An exemption under this section for a multifamily residential development which is owned by a housing development corporation or a similar entity created by a housing authority, other than a public facility corporation created by a housing authority under Chapter 303, and which does not have at least 20 percent of its residential units reserved for public housing units, applies only if:

(1) the authority holds a public hearing, at a regular meeting of the authority's governing body, to approve the development; and

(2) at least 50 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 80 percent of the area median income,

adjusted for family size.

(c-1) An exemption under this section for a multifamily residential development which is owned by a public facility corporation created by a housing authority under Chapter 303 applies only if:

(1) at least 50 percent of units in the multifamily residential development are reserved for occupancy by individuals and families earning not more than 80 percent of the area median income, adjusted for family size; and

(2) the development:

(A) has at least 20 percent of its residential units reserved for public housing units;

(B) participates in the Rental Assistance Demonstration program administered by the United States Department of Housing and Urban Development;

(C) receives financial assistance administered under Chapter 1372, Government Code, or receives financial assistance from another type of tax-exempt bond; or

(D) receives financial assistance administered under Subchapter DD, Chapter 2306, Government Code.

(d) For the purposes of Subsections (c) and (c-1), a "public housing unit" is a residential unit for which the owner receives a public housing operating subsidy. It does not include a unit for which payments are made to the landlord under the federal Section 8 Housing Choice Voucher Program.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1493, Sec. 2, eff. Aug. 31, 2002. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1169 (H.B. 2071), Sec. 9, eff. June 18, 2023.

Sec. 392.006. UNIT OF GOVERNMENT; GOVERNMENTAL FUNCTIONS. For all purposes, including the application of the Texas Tort Claims Act (Chapter 101, Civil Practice and Remedies Code), a housing authority is a unit of government and the functions of a housing authority are essential governmental functions and not proprietary functions. Provided, however, a housing authority shall be subject to all landlord obligations and tenant remedies, other than a suit for

personal injuries, as set forth in any lease or rental agreement and in Chapters 24, 54, 91, 92, and 301 of the Property Code.

Added by Acts 1989, 71st Leg., ch. 677, Sec. 2, eff. Aug. 28, 1989. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1065 (H.B. 2353), Sec. 1, eff. September 1, 2007.

SUBCHAPTER B. CREATION AND AREA OF OPERATION OF A HOUSING AUTHORITY

Sec. 392.011. CREATION OF A MUNICIPAL HOUSING AUTHORITY. (a) A housing authority is created in each municipality in the state.

(b) A municipal housing authority is a public body corporate and politic.

(c) A municipal housing authority may not transact business or exercise its powers until the governing body of the municipality declares by resolution that there is a need for the authority.

(d) The governing body of a municipality may determine on its own motion if there is a need for an authority.

(e) The governing body of a municipality shall determine if there is a need for an authority on the filing of a petition signed by at least 100 qualified voters of the municipality.

(f) The governing body of a municipality shall adopt a resolution declaring that there is a need for a housing authority if it finds that there is:

(1) unsanitary or unsafe inhabited housing in the municipality; or

(2) a shortage of safe or sanitary housing in the municipality available to persons of low income at rentals that they can afford.

(g) In determining whether housing is unsafe or unsanitary, the governing body may consider the degree of overcrowding, the percentage of land coverage, the availability to inhabitants of light, air, space, and access, the size and arrangement of rooms, the sanitary facilities, and the extent to which conditions in the housing subject life or property to the danger of fire or other hazard.

(h) In a proceeding involving the validity or enforcement of, or relating to, a contract of the authority, proof of the adoption of a resolution by the governing body that declares that there is a need

for the authority and makes the finding that either or both of the requirements of Subsection (f) exist is conclusive evidence of the establishment of the authority and of its authority to transact business and exercise its powers under this chapter. A copy of the resolution that is certified by the clerk of the municipality is admissible in evidence in the proceeding.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.012. CREATION OF A COUNTY HOUSING AUTHORITY. (a) A housing authority is created in each county in the state.

(b) A county housing authority is a public body corporate and politic.

(c) A county housing authority may not transact business or exercise its powers until the commissioners court of the county declares by resolution that there is a need for the authority.

(d) The commissioners court of a county may determine on its own motion if there is a need for an authority.

(e) The commissioners court of a county shall determine if there is a need for an authority on the filing of a petition signed by at least 100 qualified voters of the county.

(f) The commissioners court of a county shall adopt a resolution declaring that there is a need for a housing authority if it finds that there is:

(1) unsanitary or unsafe inhabited housing in the county; or

(2) a shortage of safe or sanitary housing in the county available to persons of low income at rentals that they can afford.

(g) In determining whether housing is unsafe or unsanitary, the commissioners court may consider the degree of overcrowding, the percentage of land coverage, the availability to inhabitants of light, air, space, and access, the size and arrangement of rooms, the sanitary facilities, and the extent to which conditions in the housing subject life or property to the danger of fire or other hazard.

(h) In a proceeding involving the validity or enforcement of, or relating to, a contract of the authority, proof of the adoption of a resolution by the commissioners court that declares that there is a need for the authority and makes the finding that either or both of

the requirements of Subsection (f) exist is conclusive evidence of the establishment of the authority and of its authority to transact business and exercise its powers under this chapter. A copy of the resolution that is certified by the county clerk is admissible in evidence in the proceeding.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.013. CREATION OF A REGIONAL HOUSING AUTHORITY. (a) If the commissioners courts of two or more contiguous counties declare by resolution that there is a need for a housing authority to exercise the powers of a regional housing authority under this chapter in the counties, a regional housing authority is created for the counties.

(b) A regional housing authority is a public body corporate and politic.

(c) A commissioners court shall adopt a resolution declaring that there is a need for a regional housing authority only if the commissioners court finds that:

(1) there is unsanitary or unsafe inhabited housing in the county or a shortage of safe or sanitary housing in the county available to persons of low income at rentals that they can afford; and

(2) a regional housing authority would be a more efficient or economical administrative unit than a county housing authority to carry out the purposes of this chapter for the county.

(d) In determining whether housing is unsafe or unsanitary, the commissioners court shall consider the safety and sanitation of the housing, the availability to inhabitants of light and air space, the degree of overcrowding, the size and arrangement of rooms, and the extent to which conditions in the housing subject life or property to the danger of fire or other hazard.

(e) If a county housing authority has outstanding obligations, the commissioners court may not adopt a resolution declaring a need for a regional housing authority unless:

(1) each obligee of the county housing authority and each party to a contract, bond, note, or other obligation of the authority agrees to the substitution of a regional housing authority on the contract, bond, note, or other obligation; and

(2) the commissioners of the county housing authority adopt a resolution consenting to the transfer of the rights, contracts, obligations, and real and personal property of the county housing authority to a regional housing authority.

(f) Before a resolution authorized by this section may be adopted, the commissioners court must hold a public hearing. Before the 10th day before the date of the hearing, the county clerk shall publish notice of the time, place, and purpose of the hearing in a newspaper published in the county or, if no newspaper is published in the county, in a newspaper published in the state with general circulation in the county. At the hearing, the commissioners court shall grant an opportunity to be heard to residents of the county and other interested persons.

(g) In a proceeding involving the validity or enforcement of, or relating to, a contract of a regional housing authority, proof of an adoption of a resolution by the commissioners court of each county in the regional housing authority that declares that there is a need for the authority and makes the finding that the requirements of Subsection (c) exist is conclusive evidence that the regional housing authority is created and established as a public body corporate and politic that is authorized to transact business and exercise its powers under this chapter. A copy of the resolution of a commissioners court that is certified by the county clerk is admissible in evidence in the proceeding.

(h) When a regional housing authority is created:

(1) the rights, contracts, agreements, obligations, and property of the county housing authority become those of the regional housing authority;

(2) the county housing authority shall execute a deed of the property to the regional housing authority, which shall file the deed with the county clerk of the county where the real property is located; and

(3) a person with rights or remedies against the county housing authority may assert, enforce, and prosecute those rights or remedies against the regional housing authority.

(i) The vesting of the real property in the regional housing authority is not contingent on compliance with the provisions of Subsection (h)(2).

(j) At the time a regional housing authority is created, the county housing authority in a county for which the regional housing

authority is created ceases to exist except for the purpose of winding up its affairs and executing the deed of its real property to the regional housing authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.0131. MERGER OF CERTAIN COUNTY HOUSING AUTHORITIES INTO MUNICIPAL HOUSING AUTHORITIES. (a) This section applies only to the merger of housing authorities operating in:

(1) a county that is located on the international border and contains a municipality with a population of 500,000 or more; and

(2) a municipality that has a population of more than 600,000 and less than 700,000 and is located in a county described by Subdivision (1).

(b) If the commissioners court of a county described by Subsection (a)(1) and the governing body of a municipality described by Subsection (a)(2) declare by resolutions that there is a need for the county housing authority to consolidate its powers with the municipal housing authority under this chapter, the county housing authority is merged into the housing authority for the municipality.

(c) The commissioners court and the governing body of the municipality may adopt a resolution declaring that there is a need for a merger as described by Subsection (b) only if the commissioners court and the governing body of the municipality each find that a merged housing authority would be more efficient or economical than separate county and municipal housing authorities in carrying out the purposes of this chapter.

(d) In a proceeding involving the validity or enforcement of, or relating to, a contract of a merged housing authority, proof of a resolution adopted under Subsection (b) by the commissioners court of the county and the governing body of the municipality is conclusive evidence that the merged housing authority is authorized to transact business and exercise its powers under this chapter.

(e) When housing authorities are merged in the manner provided by this section:

(1) the rights, contracts, agreements, obligations, and property of the county housing authority become those of the municipal housing authority;

(2) the county housing authority shall execute deeds of the

property to the municipal housing authority, which shall file the deeds with the county clerk of the county where the real property is located; and

(3) a person with rights or remedies against the county housing authority may assert, enforce, and prosecute those rights or remedies against the municipal housing authority.

(f) The vesting of the real property in the municipal housing authority is not contingent on compliance with Subsection (e)(2).

(g) At the time housing authorities are merged in the manner provided by this section, the county housing authority ceases to exist, except for the purpose of winding up the affairs of the authority and executing the deeds of real property to the municipal housing authority.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1137 (H.B. 2975), Sec. 1, eff. June 14, 2013.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 192, eff. September 1, 2023.

Sec. 392.014. AREA OF OPERATION OF A MUNICIPAL HOUSING AUTHORITY. The area of operation of a municipal housing authority is the municipality for which the authority is created and the area that is within five miles of the territorial boundaries of the municipality and is not within the territorial boundaries of another municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.015. AREA OF OPERATION OF A COUNTY HOUSING AUTHORITY. The area of operation of a county housing authority is the county in which the authority is created excluding the parts of the county that are within the territorial boundaries of a municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.016. AREA OF OPERATION OF A REGIONAL HOUSING AUTHORITY. The area of operation of a regional housing authority is

the counties for which the authority is created excluding the parts of the counties that are within the territorial boundaries of a municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.0161. AREA OF OPERATION OF A MERGED HOUSING AUTHORITY. Notwithstanding Section 392.017(b), the area of operation of a merged housing authority is the county in which the authority is created, excluding any part of the county that is within the territorial boundaries of a municipality other than the municipality operating the municipal housing authority into which the county housing authority was merged.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1137 (H.B. 2975), Sec. 1, eff. June 14, 2013.

Sec. 392.0162. AREA OF OPERATION OF CERTAIN MUNICIPAL HOUSING AUTHORITIES. (a) This section applies only to the operation of a municipal housing authority operating in a municipality that:

(1) has a population of more than 600,000; and

(2) is located in a county that has a population of 800,000 or more, the territorial boundary of which is contiguous to the international border.

(b) Notwithstanding Sections 392.014 and 392.017(b), a municipal housing authority may operate in:

(1) the municipality for which the authority is created; and

(2) the county described by Subsection (a)(2), other than the parts of the county:

(A) that are within the territorial boundaries of a municipality other than the municipality for which the authority is created; and

(B) in which another housing authority operates under this chapter.

(c) A municipal housing authority may begin operations in the area authorized under Subsection (b)(2) only if:

(1) the authority has completed and presented to the commissioners court of the county described by Subsection (a)(2) a

needs assessment relating to the operation of the authority in the county; and

(2) after a public hearing considering the needs assessment provided under Subdivision (1), the commissioners court votes to approve the operation of the authority in the applicable area.

Added by Acts 2019, 86th Leg., R.S., Ch. 1115 (H.B. 2287), Sec. 1, eff. September 1, 2019.

Sec. 392.017. OPERATION OF HOUSING AUTHORITY IN OTHER POLITICAL SUBDIVISIONS. (a) A county housing authority may not undertake a housing project in a municipality unless a resolution is adopted by the governing body of the municipality and by the housing authority authorized to exercise its powers exclusively in the municipality, if any:

(1) declaring a need for the county housing authority to exercise its powers in the municipality; and

(2) authorizing a cooperation agreement under Section 392.059.

(b) A municipal housing authority may not undertake a housing project outside the boundaries of the municipality in which it is authorized to exercise its powers unless a resolution is adopted by the governing body of the political subdivision in which the housing project is to be located and by the housing authority authorized to exercise its powers exclusively in the political subdivision, if any:

(1) declaring a need for the municipal housing authority to exercise its powers in the political subdivision; and

(2) authorizing a cooperation agreement under Section 392.059.

(c) A regional housing authority may not undertake a housing project in an unincorporated area of a county unless a resolution is adopted by the commissioners court of the county and by the housing authority authorized to exercise its powers in the county, if any:

(1) declaring a need for the regional housing authority to exercise its powers in the county; and

(2) authorizing a cooperation agreement under Section 392.059.

(d) A regional housing authority may not undertake a housing project in a municipality unless a resolution is adopted by the

governing body of the municipality and by the housing authority authorized to exercise its powers exclusively in the municipality, if any:

(1) declaring a need for the regional housing authority to exercise its powers in the municipality; and

(2) authorizing a cooperation agreement under Section 392.059.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 677, Sec. 8, eff. Aug. 28, 1989.

Sec. 392.018. EXPANSION OF THE AREA OF OPERATION OF A REGIONAL HOUSING AUTHORITY. (a) If the commissioners of a regional housing authority, the commissioners court of each county in the authority, and the commissioners court of a county outside the authority each adopt a resolution declaring that there is a need to include the county that is outside the authority in the area of operation of the authority, the area of operation of the authority is increased to include that part of the county not within the territorial boundaries of a municipality.

(b) The commissioners of the authority, the commissioners court of each county in the authority, and the commissioners court of the county outside the authority shall adopt the resolution required for expansion under Subsection (a) if:

(1) the commissioners court of the county outside the authority finds that there is unsanitary or unsafe inhabited housing in the county or a shortage of safe or sanitary housing in the county available to persons of low income at rentals they can afford; and

(2) the commissioners of the authority, the commissioners court of each county in the authority, and the commissioners court of the county outside the authority find that the regional housing authority would be a more efficient or economical administrative unit to carry out the purposes of this chapter if the county outside the authority is included in the area of operation of the authority.

(c) In determining whether housing is unsafe or unsanitary, the commissioners court shall consider the safety and sanitation of the housing, the availability to inhabitants of light and air space, the degree of overcrowding, the size and arrangement of rooms, and the extent to which conditions in the housing subject life or property to

the danger of fire or other hazard.

(d) If the housing authority of the county outside the regional housing authority has outstanding obligations, the resolutions required for expansion under Subsection (a) may not be adopted unless:

(1) each obligee of the county housing authority and each party to a contract, bond, note, or other obligation of the authority agrees to the substitution of the regional housing authority on the contract, bond, note, or other obligation; and

(2) the commissioners of the county housing authority and of the regional housing authority adopt resolutions consenting to the transfer of the rights, contracts, obligations, and real and personal property of the county housing authority to the regional housing authority.

(e) If an obligee whose agreement is required by Subsection (d)(1) is unknown, the county housing authority shall publish a notice in a newspaper of general national circulation that states:

(1) the name of the county housing authority;

(2) the name of the regional housing authority;

(3) that the county and regional housing authorities propose that the regional housing authority be substituted for the county housing authority on the contracts, bonds, notes, and other obligations of the county housing authority and that the county housing authority be terminated; and

(4) an address where objections to the substitution may be sent.

(f) The failure to receive an objection to the substitution of the regional housing authority on the obligations of the county housing authority on or before the 30th day after the date of the publication of the notice is equivalent to the unknown obligee's consent to the substitution.

(g) Before a resolution may be adopted under this section by the commissioners court, the court must hold a public hearing. Before the 10th day before the date of the hearing, the county clerk shall publish notice of the time, place, and purpose of the hearing in a newspaper published in the county or, if no newspaper is published in the county, in a newspaper published in the state with general circulation in the county. At the hearing, the commissioners court shall grant an opportunity to be heard to residents of the county and other interested persons.

(h) When all resolutions required by Subsections (a) and (d)(2) are adopted:

(1) the county housing authority of the county added to the area of operation of the regional housing authority ceases to exist except to wind up its affairs and to execute the deed to the regional housing authority as required by Subdivision (3);

(2) the rights, contracts, agreements, obligations, and property of the county housing authority become those of the regional housing authority;

(3) the county housing authority shall execute a deed of the property to the regional housing authority, which shall file the deed with the county clerk of the county where the property is located; and

(4) a person with rights and remedies against the county housing authority may assert, enforce, and prosecute those rights and remedies against the regional housing authority.

(i) The vesting of the real property is not contingent on compliance with Subsection (h)(3).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.019. EFFECT OF COOPERATION AGREEMENT ON AREA OF OPERATION OF HOUSING AUTHORITY. Regardless of Sections 392.015, 392.016, and 392.0161, the area of operation of a municipal housing authority, a county housing authority, a regional housing authority, or a merged housing authority may extend to and include another municipality, county, or other political subdivision of this state, under the terms of a cooperation agreement made under Section 392.059.

Added by Acts 1989, 71st Leg., ch. 677, Sec. 8, eff. Aug. 28, 1989.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1137 (H.B. 2975), Sec. 2, eff. June 14, 2013.

SUBCHAPTER C. COMMISSIONERS AND EMPLOYEES

Sec. 392.031. APPOINTMENT OF COMMISSIONERS OF A MUNICIPAL HOUSING AUTHORITY. (a) Each municipal housing authority shall be governed by five, seven, nine, or 11 commissioners. The presiding

officer of the governing body of a municipality shall appoint five, seven, nine, or 11 persons to serve as commissioners of the authority. An appointed commissioner of the authority may not be an officer or employee of the municipality. Appointments made under this section must comply with the requirements of Section 392.0331, if applicable.

(b) A commissioner may not be an officer or employee of the municipality. A commissioner may be:

(1) a tenant of a public project over which the housing authority has jurisdiction; or

(2) a recipient of housing assistance administered through the authority's housing choice voucher program or project-based rental assistance program.

(c) A certificate of the appointment of a commissioner shall be filed with the clerk of the municipality. The certificate is conclusive evidence of the proper appointment of the commissioner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 888, Sec. 1, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 1009, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 436, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 900 (S.B. 1716), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 448 (S.B. 593), Sec. 1, eff. September 1, 2017.

Sec. 392.032. APPOINTMENT OF COMMISSIONERS OF A COUNTY HOUSING AUTHORITY. (a) Each county housing authority shall be governed by five commissioners. The commissioners court shall appoint five persons to serve as commissioners of the authority. An appointed commissioner of the authority may not be an officer or employee of the county. Appointments made under this section must comply with the requirements of Section 392.0331, if applicable.

(b) A commissioner of the authority may not be an officer or employee of the county. A commissioner may be:

(1) a tenant of a public project over which the housing authority has jurisdiction; or

(2) a recipient of housing assistance administered through

the authority's housing choice voucher program or project-based rental assistance program.

(c) A certificate of the appointment of a commissioner shall be filed with the county clerk. The certificate is conclusive evidence of the proper appointment of the commissioner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 1009, Sec. 2, eff. Sept. 1, 1993. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 315 (H.B. 2529), Sec. 1, eff. September 1, 2019.

Sec. 392.033. APPOINTMENT OF COMMISSIONERS OF A REGIONAL HOUSING AUTHORITY. (a) The commissioners court of each county in a regional housing authority shall appoint a person to serve as a commissioner of the authority. Subsequently, the commissioners court of each county shall appoint successors to the commissioner of the authority appointed by that commissioners court. An appointed commissioner of the authority may not be an officer or employee of the county. A commissioner may be:

(1) a tenant of a public project over which the housing authority has jurisdiction; or

(2) a recipient of housing assistance administered through the authority's housing choice voucher program or project-based rental assistance program.

(b) If the area of operation of an authority is increased to include another county, the commissioners court of that county shall appoint a person to serve as a commissioner of the authority and, subsequently, the successors to that commissioner.

(c) If there are only two counties in the housing authority, the commissioners of the authority appointed by the commissioners courts shall appoint an additional commissioner to serve as commissioner of the authority. Subsequently, the commissioners of the authority appointed by the commissioners courts shall appoint a person to succeed the additional commissioner if the successor's term of office begins during their term of office. If the area of operation of the authority is increased to more than two counties, a successor to the additional commissioner is not appointed.

(d) If the housing authority contains only one county, the

commissioners court of that county shall appoint three persons instead of one person to serve as commissioners of the authority. Subsequently, the commissioners court of the county shall appoint successors to the commissioners of the authority appointed by that commissioners court.

(e) A certificate of the appointment of a commissioner appointed by a commissioners court shall be filed with the county clerk. The certificate is conclusive evidence of the proper appointment of the commissioner.

(f) A certificate of the appointment of an additional commissioner by the commissioners of an authority composed of only two counties shall be filed with the records of the authority. The certificate is conclusive evidence of the proper appointment of the commissioner.

(g) Appointments made under this section must comply with the requirements of Section 392.0331, if applicable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 1009, Sec. 3, eff. Sept. 1, 1993. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 315 (H.B. 2529), Sec. 2, eff. September 1, 2019.

Sec. 392.0331. APPOINTMENT OF TENANT REPRESENTATIVE OR CERTAIN OTHER RECIPIENTS OF HOUSING ASSISTANCE AS COMMISSIONER OF MUNICIPAL, COUNTY, OR REGIONAL HOUSING AUTHORITY. (a) This section applies only to:

(1) a municipality; or

(2) a county that has a county housing authority or is a member of regional housing authority and the total number of units in the authority is more than 750.

(b) Except as provided by Subsection (b-1), in appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of five commissioners shall appoint at least one commissioner to the authority who is a tenant of a public housing project over which the authority has jurisdiction or who is a recipient of housing assistance administered through the authority's housing choice voucher program or project-based rental assistance program. In appointing commissioners under Section 392.031, a

municipality with a municipal housing authority composed of seven or more commissioners shall appoint at least two commissioners to the authority who are tenants of a public housing project over which the authority has jurisdiction or who are recipients of housing assistance administered through the authority's housing choice voucher program or project-based rental assistance program.

(b-1) The presiding officer of the governing body of a municipality that has a municipal housing authority in which the total number of units is 150 or fewer is not required to appoint a tenant or a recipient of housing assistance to the position of commissioner as otherwise required by Subsection (b) if the presiding officer has provided timely notice of a vacancy in the position to all eligible tenants or recipients of housing assistance and is unable to fill the position with an eligible tenant or recipient of housing assistance before the 60th day after the date the position becomes vacant.

(b-2) Repealed by Acts 2019, 86th Leg., R.S., Ch. 315 (H.B. 2529), Sec. 5, eff. September 1, 2019.

(b-3) Repealed by Acts 2019, 86th Leg., R.S., Ch. 315 (H.B. 2529), Sec. 5, eff. September 1, 2019.

(c) In appointing commissioners under Section 392.032, a county shall appoint at least one commissioner to a county housing authority who is a tenant of a public housing project over which the county housing authority has jurisdiction or who is a recipient of housing assistance administered through the authority's housing choice voucher program or project-based rental assistance program.

(d) In appointing commissioners under Section 392.033, a county or counties comprising a regional housing authority shall appoint at least one commissioner to a regional housing authority who is a tenant of a public housing project over which the regional housing authority has jurisdiction or who is a recipient of housing assistance administered through the authority's housing choice voucher program or project-based rental assistance program. If more than one county comprises a regional housing authority, the counties shall agree to a method for appointing to the regional housing authority the member who is a tenant or a recipient of housing assistance.

(e) A commissioner appointed under this section may not be an officer or employee of the municipality or county that appoints the commissioner.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 262, Sec. 1, eff. June 14, 2013.

(f-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 262, Sec. 1, eff. June 14, 2013.

(g) A commissioner appointed under this section may not participate:

(1) in any vote or discussion concerning the termination of:

(A) the commissioner's occupancy rights in public housing;

(B) the commissioner's rights to housing assistance administered through a housing choice voucher program or a project-based rental assistance program; or

(C) the rights of any person related in the first degree by consanguinity to the commissioner with respect to the person's occupancy rights in public housing or right to receive housing assistance administered through a housing choice voucher program or a project-based rental assistance program; or

(2) in a grievance or administrative hearing in which the commissioner or a person related in the first degree by consanguinity to the commissioner is a party.

(h) If a commissioner appointed under this section as a tenant of a public housing project ceases to reside in a housing unit operated by the public housing authority during the commissioner's term, a majority of the other commissioners shall decide whether to request that a new commissioner be appointed. A majority of the commissioners may decide to allow the commissioner to serve the remaining portion of the commissioner's term.

(h-1) If a commissioner appointed under this section as a recipient of housing assistance administered through the authority's housing choice voucher program or project-based rental assistance program ceases to receive that assistance, a majority of the other commissioners shall decide whether to request that a new commissioner be appointed. A majority of the commissioners may decide to allow the commissioner to serve the remaining portion of the commissioner's term.

(i) If a commissioner appointed under this section fails to attend three consecutive regularly called meetings of the housing authority commissioners during the commissioner's term, a majority of the commissioners shall decide whether to declare the position vacant

and request that a new commissioner be appointed. A majority of the commissioners may decide to allow the commissioner to serve the remaining portion of the commissioner's term.

Added by Acts 1993, 73rd Leg., ch. 1009, Sec. 4, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 834, Sec. 1, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 175, Sec. 1, eff. May 21, 1999; Acts 1999, 76th Leg., ch. 436, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 10, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 262 (H.B. 654), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 900 (S.B. 1716), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 448 (S.B. 593), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 315 (H.B. 2529), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 315 (H.B. 2529), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 315 (H.B. 2529), Sec. 5, eff. September 1, 2019.

Sec. 392.034. TERMS OF OFFICE OF COMMISSIONERS. (a) Two of the original commissioners of a county housing authority shall be designated to serve one-year terms from the date of their appointment, and three shall be designated to serve two-year terms. Subsequent commissioners are appointed for two-year terms.

(b)(1) The original commissioners of a municipal housing authority shall serve terms as follows:

(A) for an authority with five commissioners, two shall be designated to serve one-year terms and three shall be designated to serve two-year terms;

(B) for an authority with seven commissioners, three shall be designated to serve one-year terms and four shall be designated to serve two-year terms;

(C) for an authority with nine commissioners, four shall be designated to serve one-year terms and five shall be

designated to serve two-year terms; and

(D) for an authority with 11 commissioners, five shall be designated to serve one-year terms and six shall be designated to serve two-year terms.

(2) Subsequent municipal housing commissioners are appointed for two-year terms.

(c) Commissioners of a regional housing authority are appointed for two-year terms.

(d) Vacancies shall be filled for the unexpired term.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 436, Sec. 3, eff. Sept. 1, 1999.

Sec. 392.035. COMPENSATION. A commissioner of a housing authority may not receive compensation for service as a commissioner. A commissioner is entitled to receive reimbursement for the necessary expense, including traveling expenses, incurred in the discharge of duties as a commissioner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.036. VOTE REQUIRED FOR ACTION. Unless the authority's bylaws require a larger number, when a quorum is present an authority may take action on a vote of a majority of the commissioners present.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.037. CHAIRMAN AND VICE-CHAIRMAN OF A MUNICIPAL OR COUNTY HOUSING AUTHORITY. (a) The mayor shall designate one of the initial commissioners of a municipal housing authority as chairman. The commissioners court shall designate one of the initial commissioners of a county housing authority as chairman. Subsequently, when the office of chairman becomes vacant the authority shall select one of the commissioners as chairman.

(b) A municipal or county housing authority shall select one of the commissioners as vice-chairman.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.038. OTHER OFFICERS AND EMPLOYEES OF A MUNICIPAL OR COUNTY HOUSING AUTHORITY. A municipal or county housing authority may employ a secretary, who shall serve as executive director, and may employ technical experts and other officers, agents, and employees, permanent or temporary, the authority considers necessary. The authority shall determine the qualifications, duties, and compensation of the persons employed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.039. OFFICERS AND EMPLOYEES OF A REGIONAL HOUSING AUTHORITY. (a) The commissioners of a regional housing authority shall elect a chairman from among the commissioners.

(b) The commissioners of a regional housing authority may select or employ other officers and employees the commissioners consider necessary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.040. LEGAL SERVICES. (a) A municipal housing authority may request needed legal services from the municipal attorney or it may employ its own counsel and legal staff.

(b) A county housing authority may request needed legal services from the county attorney or it may employ its own counsel and legal staff.

(c) A regional housing authority may request needed legal services from the county attorney of a county in the authority or it may employ its own counsel and legal staff.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(v), eff. Aug. 28, 1989.

Sec. 392.041. REMOVAL OF A COMMISSIONER. (a) The mayor may remove a commissioner of a municipal housing authority for inefficiency, neglect of duty, or misconduct in office.

(b) The commissioners court may remove a commissioner of a

county housing authority for inefficiency, neglect of duty, or misconduct in office.

(c) For inefficiency, neglect of duty, or misconduct in office, the commissioners court may remove a commissioner of a regional housing authority who was appointed by the commissioners court.

(d) For inefficiency, neglect of duty, or misconduct in office, the commissioners of a regional housing authority consisting of only two counties may remove the additional commissioner appointed by the commissioners.

(e) Before a commissioner may be removed, the commissioner must be given:

(1) a copy of the charges before the 10th day before the date of a hearing on the charges; and

(2) an opportunity to be heard in person or by counsel at the hearing.

(f) If a commissioner of a municipal housing authority is removed, a record of the proceedings with the charges and findings shall be filed in the office of the clerk of the municipality.

(g) If a commissioner of a county housing authority is removed, a record of the proceedings with the charges and findings shall be filed in the office of the county clerk.

(h) If a commissioner of a regional housing authority is removed, a record of the proceedings with the charges and findings shall be filed in the office of the county clerk if the commissioner was appointed by a commissioners court or shall be filed with the records of the authority if the commissioner was appointed by the other commissioners of the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.042. INTERESTED COMMISSIONERS. (a) In this section, "housing project" includes, in addition to the works or undertakings described by Subdivision (6) of Section 392.002:

(1) a work or undertaking implemented for a reason described by Subdivision (6) of Section 392.002 that is financed in any way by public funds or tax-exempt revenue bonds; or

(2) a building over which the housing authority has jurisdiction and of which a part is reserved for occupancy by persons who receive income or rental supplements from a governmental entity.

(b) Except as provided by Subsection (c), a commissioner of an authority may not have dealings with a housing project for pecuniary gain and may not own, acquire, or control a direct or indirect interest in a:

(1) housing project;

(2) property included or planned to be included in a housing project;

(3) contract or proposed contract for the sale of land to be used for a housing project;

(4) contract or proposed contract for the construction of a housing project; or

(5) contract or proposed contract for the sale of materials or services to be furnished or used in connection with a housing project.

(c) A commissioner may:

(1) manage a housing project;

(2) own, acquire, or control a management company that renders management services to a housing project;

(3) continue to own or control an interest in a housing project held by the commissioner before the commissioner's term of office began; or

(4) own, acquire, or control an interest in, or have dealings with, a housing project over which the commissioner's housing authority does not have jurisdiction.

(d) If a commissioner manages, owns, acquires, or controls a direct or indirect interest in property included or planned to be included in a housing project or has any other dealings for pecuniary gain with a housing project, the commissioner shall immediately disclose the interest or dealings to the authority in writing. The disclosure shall be entered in the minutes of the authority. The failure to disclose the interest constitutes misconduct of office.

(e) A commissioner who knowingly or intentionally violates Subsection (b) or (d) commits an offense. An offense under this subsection is a felony of the third degree.

(f) A person finally convicted under Subsection (e) is ineligible for future employment with the state, a political subdivision of the state, or a public corporation formed under the authority of the state or a political subdivision of the state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.043. INTERESTED EMPLOYEES. (a) Except as provided by Subsection (b), (c), or (f), an employee of an authority may not have dealings with a housing project for pecuniary gain and may not own, acquire, or control a direct or indirect interest in a:

(1) housing project;

(2) property included or planned to be included in a housing project;

(3) contract or proposed contract for the sale of land to be used for a housing project;

(4) contract or proposed contract for the construction of a housing project; or

(5) contract or proposed contract for the sale of materials or services to be furnished or used in connection with a housing project.

(b) An employee may not have any dealings with a housing project for pecuniary gain except in the performance of duties as an employee of the housing authority.

(c) Except as otherwise permitted by this chapter or another law, an employee of an authority may not be employed by or otherwise contract to provide services to another authority unless the first authority gives its written consent to the employment or contract. An employee of an authority who is employed by or who contracts to provide services to another authority under this subsection does not violate Subsection (a) or (b).

(d) An employee who knowingly or intentionally violates Subsection (a) or (c) commits an offense. An offense under this subsection is a felony of the third degree.

(e) A person finally convicted under Subsection (d) is ineligible for future employment with the state, a political subdivision of the state, or a public corporation formed under the authority of the state or a political subdivision of the state.

(f) An employee of an authority may be a party to or otherwise participate in a contract or agreement for assistance under a housing program, including a contract or agreement for public housing, Section 8 housing assistance, low-interest home loans, lease-purchase assistance, or down payment assistance, to the same extent as a member of the public if the employee qualifies for assistance under the program.

(g) In this section, "Section 8 housing assistance" means housing assistance provided under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 64, Sec. 1, eff. Nov. 1, 1987; Acts 1999, 76th Leg., ch. 231, Sec. 1, eff. May 24, 1999.

SUBCHAPTER D. POWERS AND DUTIES OF A HOUSING AUTHORITY

Sec. 392.051. GENERAL POWERS. (a) An authority exercises public and essential governmental functions and has the powers necessary or convenient to accomplish the purposes and provisions of this chapter.

(b) The powers of an authority are vested in the commissioners of the authority.

(c) An authority may delegate a power or duty to an agent or employee as it considers proper.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.052. OPERATION, CONSTRUCTION, AND LEASING OF HOUSING PROJECTS. (a) An authority may prepare, carry out, acquire, lease, and operate a housing project in its area of operation.

(b) An authority may provide for the construction, improvement, alteration, or repair of a housing project, or part of a housing project, in its area of operation.

(c) An authority may arrange or contract for services, privileges, works, or facilities for, or in connection with, a housing project or the occupants of a housing project to be furnished by a person or public or private agency.

(d) Without regard to another provision in this chapter or other law, an authority may include stipulations in a contract made in connection with a housing project that require the contractor and subcontractors to comply with the requirements regarding minimum wages and maximum hours of labor and with any conditions the federal government has attached to its financial aid to the project.

(e) An authority may lease or rent housing, land, buildings, structures, or facilities included in a housing project at rents established or revised, subject to the limitations of this chapter,

by the authority.

(f) An authority may take action necessary or desirable in the undertaking, construction, maintenance, or operation of a housing project, including action to:

(1) borrow money or accept grants or other financial assistance from the federal government for, or in aid of, a housing project in the authority's area of operation;

(2) take over, lease, or manage a housing project or undertaking constructed or owned by the federal government;

(3) comply with conditions and enter into mortgages, trust indentures, leases, or agreements that are necessary, convenient, or desirable to accomplish the public purposes of this chapter;

(4) form a partnership or another legal entity to raise capital for a housing project to be owned by the partnership or other legal entity; and

(5) acquire, construct, lease, or manage commercial space incidental to a mixed-finance housing project, as defined by 42 U.S.C. Section 1437z-7, if:

(A) the commercial space occupies less than 20 percent of the square footage of the housing project and can reasonably be expected to be used by the residents of the housing project; and

(B) the housing project is designed in a manner that minimizes the noise, safety, and traffic impact of the commercial space on the residential space.

(g) A housing project is subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the site of the housing project. In planning a housing project, including site location, an authority shall consider the relationship of the project to a larger plan or long-range program for the development of the area within the housing authority.

(h) Competitive bidding laws, including Chapter 271, do not apply to an authority activity to develop a mixed-finance housing project as defined by 42 U.S.C. Section 1437z-7, if the housing project otherwise complies with the procurement requirements imposed by federal law and regulations.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 677, Sec. 3, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1346, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 2001.

Sec. 392.0525. LETTER OF CREDIT ACCEPTED IN LIEU OF PAYMENT AND PERFORMANCE BONDS. In the award of a contract for the construction, reconstruction, improvement, alteration, or repair of any public building or for the completion of any public work, an authority must comply with applicable state laws regarding the execution of a contractor's performance bond and payment bond. However, if authorized by a federal program or federal regulation, an authority may accept, in lieu of a performance bond and payment bond, an unconditional and irrevocable letter of credit in the amount of the contract price and payable to the authority.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 80(a), eff. Aug. 28, 1989.

Sec. 392.053. PUBLIC MEETING ON PROPOSED HOUSING PROJECT. (a) In this section, "housing project" includes, in addition to the works or undertakings described by Subdivision (6) of Section 392.002:

(1) a work or undertaking implemented for a reason described by Subdivision (6) of Section 392.002 that is financed in any way by public funds or tax-exempt revenue bonds; or

(2) a building over which the housing authority has jurisdiction and of which a part is reserved for occupancy by persons who receive income or rental supplements from a governmental entity.

(b) Unless the commissioners of an authority hold a public meeting about a proposed housing project before the site for the project is approved, the authority may not authorize the construction of the housing project or obtain a permit, certificate, or other authorization required by a municipality or other political subdivision for any part of the construction of the housing project. A majority of the commissioners must attend the public meeting.

(c) The commissioners shall hold the meeting at the closest available facility to the site of the proposed project.

(d) The commissioners shall allow a person who owns or leases real property within one-fourth mile of the proposed site to comment on the proposed project.

(e) If a housing authority has not complied with the requirements of this section and Section 392.054, a municipality or other political subdivision may not issue a permit, certificate, or

other authorization for any part of the construction of, or for the occupancy of, a housing project.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.054. NOTICE OF PUBLIC MEETING. (a) In addition to any other notice required by law, the commissioners of an authority shall post notice of the date, hour, place, and subject of a meeting required by Section 392.053. The notice must be posted before the 30th day before the date of the meeting on a bulletin board at a place convenient to the public in:

(1) the county courthouse of the county in which the proposed site is located; and

(2) the city hall of the municipality in which the proposed site is located, if applicable.

(b) Before the 30th day before the date of the meeting, the commissioners shall publish a copy of the notice required by Subsection (a) in a newspaper with, or in newspapers that collectively have, general circulation in the county in which the proposed project is located.

(c) Before the 30th day before the date of the meeting, the commissioners shall mail a notice containing the same information as the notice required by Subsection (a) to each person who owns real property within one-fourth mile of the site of the proposed project. The commissioners may rely on the most recent county tax roll for the names and addresses of the owners.

(d) At a location at the proposed site that is visible from a regularly traveled thoroughfare, before the 30th day before the date of the meeting the commissioners shall post a sign not less than four feet by four feet with a caption stating "Site of Proposed Housing Project" in eight-inch letters. The sign must state the nature and location of the proposed project, the names and addresses of the governmental entities involved in the development of the project, and the date, time, and place of the meeting.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.055. RENTALS AND TENANT SELECTION. (a) An authority may rent or lease housing only to persons of low income and only at

rentals that persons of low income can afford, in accordance with policy guidelines to be adopted annually by the authority on or before the beginning of each fiscal year of the authority.

(b) An authority may not rent or lease housing to a tenant that consists of a greater number of rooms than the number the authority considers necessary to provide safe and sanitary housing to the proposed occupants without overcrowding.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 677, Sec. 8, eff. Aug. 28, 1989.

Sec. 392.0555. PET OWNERSHIP POLICY. A housing authority policy permitting tenant ownership of a pet must comply with all applicable county or municipal restrictions on dangerous dogs imposed under Section 822.047, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 4 (S.B. 349), Sec. 1, eff. May 10, 2023.

Sec. 392.056. ACQUISITION, USE, AND DISPOSITION OF REAL AND PERSONAL PROPERTY. (a) An authority may own, hold, and improve real or personal property.

(b) An authority may purchase, lease, or obtain an option on an interest in real or personal property. An authority may acquire an interest in real or personal property by gift, grant, bequest, devise, or any other manner.

(c) An authority may sell, lease, exchange, transfer, assign, pledge, or grant an option on the authority's real property or personal property and may insure or provide for the insurance of the authority's real property, personal property, or operations against risks or hazards.

(d) Regardless of whether the debt is incurred by the authority, an authority may procure insurance or guarantees from the federal government of the payment of a debt, or part of a debt, secured by a mortgage on property included in a housing project.

(e) Another law with respect to the acquisition, operation, or disposition of property by another public body does not apply to a housing authority unless specifically provided by the legislature.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 677, Sec. 4, eff. Aug. 28, 1989.

Sec. 392.0565. PURCHASES MADE UNDER FEDERAL PROCUREMENT PROGRAM. (a) An authority may purchase equipment and supplies and award contracts for services or for repairs, maintenance, and replacements in compliance with the consolidated supply program or any other procurement program or procedure established by the federal government. The authority is exempt from applicable state laws to the extent necessary to allow the authority's participation in the program or procedure.

(b) On the request of a Texas vendor, an authority shall provide the vendor with the current cost published by the consolidated supply program or any other product program established by the federal government that the authority might use to purchase any of the supplies or equipment it uses. An authority shall permit the vendor to bid on those items it believes that it can provide at the same or lower delivered cost if the vendor can demonstrate that the items are of the same quality and specifications as those offered through the applicable federal program.

(c) In this section, "consolidated supply program" means a program established by the U.S. Department of Housing and Urban Development to assist housing authorities to operate public housing projects efficiently and economically and to assure the availability of products that have the durability required for the safety, security, and economical maintenance of low-income housing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 81(a), eff. Aug. 28, 1989.

Sec. 392.057. INVESTMENT OF FUNDS. An authority may invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which a savings bank may legally invest funds subject to its control.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.058. RESEARCH AND INVESTIGATION. (a) An authority may research, study, and experiment on the subject of housing in its

area of operation.

(b) An authority may investigate housing conditions and methods of improving housing conditions in its area of operation.

(c) An authority may determine where there is a slum area or a shortage of decent, safe, and sanitary housing available to persons of low income in its area of operation.

(d) An authority may make studies and recommendations relating to the problems of clearing, replanning, and reconstructing slum areas and of providing housing for persons of low income in its area of operation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.059. COOPERATION WITH OTHER GOVERNMENTAL ENTITIES OR HOUSING AUTHORITIES. (a) An authority may cooperate with a municipality, a county, another political subdivision of this state, or the state in action taken in connection with the problems of clearing, replanning, and reconstructing slum areas and of providing housing for persons of low income in the area of operation of the authority or within the boundaries of the cooperating political subdivision.

(b) Housing authorities may cooperate in the exercise of a power conferred by this chapter to finance, plan, undertake, construct, or operate a housing project in the area of operation of one or more of the cooperating authorities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 677, Sec. 5, eff. Aug. 28, 1989.

Sec. 392.060. HEARINGS. Acting through one or more commissioners or other persons designated by the authority, an authority may:

(1) conduct examinations and investigations and hear testimony and accept evidence under oath at a public or private hearing on a matter material for the authority's information;

(2) administer oaths, issue a subpoena requiring the attendance of a witness or the production of books and papers, and issue a commission for the examination of a witness who is outside the state, unable to attend the hearing, or excused from attendance;

and

(3) make its findings and recommendations with regard to a building or property where conditions exist that are dangerous to the public health, morals, safety, or welfare available to appropriate agencies, including agencies charged with the duty of abating, or requiring the correction of, nuisances or similar conditions or of demolishing unsafe or unsanitary structures within the authority's area of operation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.061. EMINENT DOMAIN. (a) An authority may acquire an interest in real property, including a fee simple interest, by the exercise of the power of eminent domain after it adopts a resolution describing the real property and declaring the acquisition of the property necessary for the purposes of the authority under this chapter.

(b) An authority may exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, or by other applicable statutory provisions for the exercise of the power of eminent domain.

(c) An authority may exercise the power of eminent domain to acquire property already devoted to public use, but the authority may not acquire real property belonging to a municipality, a county, another political subdivision, or the state without the consent of the governmental entity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.062. REPORTS. (a) At least once a year, each housing authority shall file a report of its activities for the preceding year and make recommendations for additional legislation or other action it considers necessary to carry out the purposes of this chapter.

(b) A municipal housing authority shall file the report with the clerk of the municipality. A county housing authority shall file the report with the county clerk. A regional housing authority shall file the report with the county clerks of the counties in the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.063. PROJECTS FOR FARMERS OF LOW INCOME. (a) A county, regional, or merged housing authority may borrow money, accept grants, and exercise its powers to provide housing for farmers of low income.

(b) As the authority considers necessary to assure the achievement of the objectives of this chapter, in connection with a project for farmers of low income an authority may enter into a lease or purchase agreement, accept a conveyance, and rent or sell housing that is part of the project to or for farmers of low income. The lease, agreement, or conveyance may include covenants that the authority considers appropriate regarding the housing and the land described in the instrument. If the authority considers it necessary and on the stipulation of the parties, the covenants run with the land.

(c) The owner of a farm operated, or worked on, by farmers of low income in need of safe and sanitary housing may file an application with a county, regional, or merged housing authority requesting that the authority provide safe and sanitary housing for the farmers. The housing authority shall consider the applications in connection with the formulation of projects or programs to provide housing for farmers of low income.

(d) A county or regional housing authority is not subject to the limitations in Subsections (c) and (d) of Section 392.055 in respect to housing projects for farmers of low income.

(e) This section does not limit other powers of a housing authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1137 (H.B. 2975), Sec. 3, eff. June 14, 2013.

Sec. 392.064. CORPORATE NAME OF REGIONAL HOUSING AUTHORITY. A regional housing authority may select an appropriate corporate name.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.065. MISCELLANEOUS POWERS. An authority may:

(1) sue and be sued;

(2) have a seal and change the seal at will;

(3) have perpetual succession;

(4) make and execute contracts and other instruments that are necessary or convenient to the exercise of the authority's powers; and

(5) make, amend, and repeal bylaws and rules that are consistent with this chapter to implement the authority's powers and purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.066. PUBLIC FACILITY CORPORATION. (a) An authority that creates a public facility corporation under Chapter 303 may, with or without consideration, for the purpose of providing affordable housing or housing assistance, enter into an agreement with, make a contribution to, make an investment in, enter into a lease or exchange with, or make a mortgage or loan to the corporation to:

(1) acquire, construct, rehabilitate, renovate, repair, equip, furnish, or provide assistance to a residential development described by Section 394.004 or a housing project; or

(2) accomplish another public purpose authorized by law.

(b) For the purpose of providing affordable housing or housing assistance and for a purpose described by Subsection (a), an authority described by Subsection (a) may also, with or without consideration:

(1) transfer, convey, pledge, or otherwise use money, personal or real property, or any other right or benefit to which the authority is entitled under state or federal law; and

(2) pledge a right or benefit described by Subdivision (1) to secure the payment of indebtedness issued by the public facility corporation created by the authority.

(c) For the purpose of providing affordable housing or housing assistance, an authority may exercise a power granted by Subsection (a) as necessary to:

(1) develop or diversify the economy of this state;

(2) reduce unemployment or underemployment in this state;

(3) develop or expand commerce in this state; or

(4) promote another public purpose.

(d) The powers granted by this section do not affect the powers of an authority granted under Chapter 303.

(e) A housing development project or other program that uses funds provided by an authority under this section must benefit individuals and families whose incomes are not more than 60 percent of the area median family income, adjusted for family size, as determined by the United States Department of Housing and Urban Development, in the same proportion that the funds provided by the authority under this section bear to the overall cost of the housing development project or other program.

Added by Acts 1999, 76th Leg., ch. 348, Sec. 1, eff. May 29, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.341, eff. Sept. 1, 2001.

Sec. 392.067. VETERANS HOUSING IN CERTAIN COUNTIES. (a) In this section, "veteran" means a person who has served on active duty in the armed forces of the United States or in the state military forces as defined by Section 437.001, Government Code.

(b) A county or municipal housing authority in a county with a population of more than 500,000 may borrow money, accept grants, and exercise its powers to provide safe and sanitary housing communities for veterans.

(c) As the authority considers necessary to achieve the purposes of this chapter, an authority may enter into a lease or purchase agreement or accept a conveyance regarding real property as part of a housing project that will benefit veterans. The agreement or conveyance may include any restrictive covenants that the authority considers appropriate regarding the property. As the authority considers necessary and on the stipulation of the parties, the covenants run with the property.

(d) A county or municipal housing authority to which this section applies is not subject to the limitations in Section 392.014, 392.015, or 392.017 with respect to a housing project that benefits veterans as authorized by this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 951 (H.B. 3358), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.16, eff. September 1, 2013.

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 392.081. AUTHORITY TO ISSUE BONDS. (a) An authority may, by resolution, authorize the issuance of bonds in one or more series for a corporate purpose of the authority.

(b) An authority may issue refunding bonds to repay or retire bonds that the authority previously issued.

(c) An authority may determine the type of bond to issue, including bonds on which the principal and interest are payable:

(1) exclusively from the income and revenues of the housing project financed by the proceeds of the bonds or financed by those proceeds and a federal grant in aid of the project;

(2) exclusively from the income and revenue of designated housing projects regardless of whether the projects are financed by the bonds; or

(3) from general revenue of the housing authority.

(d) Bonds issued by an authority may be additionally secured by a pledge of revenue or by the mortgage of a housing project or other property of the authority. In addition, an authority may make credit agreements in conjunction with the issuance, payment, sale, resale, or exchange of bonds to enhance the security for or provide for the payment, redemption, or remarketing of the bonds and the interest on the bonds. The cost to the authority of the credit agreement may be paid from the proceeds of the sale of the bonds to which the credit agreement relates or from any other source, including revenues of the authority that are available for the purpose of paying the bonds and the interest on the bonds or that may otherwise be legally available to make those payments.

(e) Bonds issued by an authority are not a debt for the purposes of a constitutional or statutory debt limitation or restriction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 677, Sec. 6, eff. Aug. 28, 1989.

Sec. 392.082. FORM OF BONDS. (a) The resolution authorizing bonds of an authority, or a trust indenture or mortgage of the authority that secures the bonds, may provide:

(1) the date to appear on the bonds;

(2) the maturity date of the bonds;

(3) the interest rate of the bonds;

(4) the denomination of the bonds;

(5) the form of the bonds, either coupon or registered;

(6) conversion or registration privileges of the bonds;

(7) the rank and priority of the bonds;

(8) the manner of execution of the bonds;

(9) the medium and place of payment of the bonds; and

(10) the terms of redemption of the bonds, with or without premium.

(b) The signatures of commissioners or officers on the bonds are valid and sufficient for all purposes regardless of whether the commissioners or officers are in office or have left office at the time the bonds are delivered.

(c) In a proceeding involving the validity or enforceability of a bond of an authority, or the security for the bond, a bond that recites in substance that it is issued by the authority to aid in financing a housing project to provide housing for persons of low income shall be conclusively considered to be issued for that purpose and the project shall be conclusively considered to be planned, located, and constructed in accordance with this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.083. SALE OF BONDS. (a) Bonds issued by an authority may be sold either at a public sale after notice is published in accordance with this section or at a private sale. Bonds may be sold at the price or prices determined by the authority but may not be sold at a price that would cause the interest on the bonds to exceed the maximum net effective interest rate established by Chapter 1204, Government Code.

(b) Notice of a public sale of bonds of a housing authority must be published before the fifth day before the date of the sale in a newspaper with general circulation within the boundaries of the authority and in a financial newspaper published in New York, New

York.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 677, Sec. 7, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1420, Sec. 8.342, eff. Sept. 1, 2001.

Sec. 392.0831. PAYMENT FOR BONDS. Bonds issued by an authority may be sold:

(1) for cash;

(2) in exchange for property constituting a housing project; or

(3) by any combination of those methods.

Added by Acts 1989, 71st Leg., ch. 677, Sec. 8, eff. Aug. 28, 1989.

Sec. 392.084. NEGOTIABILITY OF BONDS. A bond issued under this chapter is fully negotiable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.085. LIABILITY ON BONDS AND OTHER OBLIGATIONS. (a) A commissioner of an authority or a person who executes the bonds for an authority is not liable personally on the bonds due to the issuance of the bonds.

(b) The bonds and other obligations of an authority are not a debt of a municipality, a county, another political subdivision of the state, or the state, and a municipality, a county, another political subdivision, or the state is not liable on the bonds.

(c) Bonds issued by an authority are payable from only the funds and property of the authority issuing the bonds.

(d) Bonds and other obligations of an authority must state on their face that they are not debts of a municipality, a county, another political subdivision, or the state; that a municipality, a county, another political subdivision, or the state is not liable on the bonds; and that the bonds are payable from only the funds and property of the authority issuing the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.086. TAX EXEMPTION. Bonds of an authority are issued for an essential public and governmental purpose and are public instrumentalities. The bonds, interest on the bonds, and income from the bonds are exempt from taxes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.087. PLEDGES, MORTGAGES, AND COVENANTS TO SECURE BONDS OR LEASE OBLIGATIONS. In connection with the issuance of bonds or the incurring of obligations under a lease, an authority may make a covenant or take an action that is necessary, convenient, or desirable to secure the payment of the bonds or obligations or to make the bonds more marketable, including:

(1) pledging of gross or net rent, fees, or revenues to which it has a right or may have a right in the future;

(2) mortgaging real or personal property that the authority owns or later acquires;

(3) providing terms and conditions for the redemption of bonds;

(4) vesting in a trustee or the holder of the bonds, or a part of the bonds, the right to enforce the payment of the bonds or a covenant securing or relating to the bonds;

(5) vesting in a trustee, in the event of a default by the authority, the right to take possession of, and to use, operate, and manage, a housing project, or part of a housing project; to collect the rents and revenues of the housing project; and to dispose of that money in accordance with the agreement of the authority with the trustee;

(6) providing for the powers and duties of a trustee; limiting the liabilities of the trustee; and providing the terms and conditions on which the trustee or a holder of bonds, or a part of the bonds, may enforce a covenant or right securing or relating to the bonds;

(7) prescribing the procedure, if any, by which the terms of a contract with bond holders may be amended or abrogated; the amount of bonds that may not be amended or abrogated without consent of the holder; and the manner in which the consent may be given;

(8) making a covenant against:

(A) pledging rents, fees, and revenues; mortgaging real or personal property that the authority owns or may later acquire; or permitting a lien on its revenues or property; or

(B) extending the time for payment of the bonds or interest on the bonds or the time to redeem the bonds;

(9) making a covenant regarding:

(A) limitations on the authority's right to sell, lease, or dispose of in any manner a housing project, or part of a housing project;

(B) debts or obligations incurred by the authority;

(C) bonds to be issued, the issuance of the bonds in escrow or otherwise, and the use and disposition of the proceeds from the bonds;

(D) the rents and fees charged in operating a housing project, subject to the limitations of this chapter; the amount to be raised each year, or other period, by rents, fees, and other revenues; and the use and disposition of the rents, fees, and other revenues;

(E) the use, maintenance, or replacement of the authority's real or personal property;

(F) insurance carried on the authority's real or personal property and the use and disposition of insurance money; or

(G) the rights, liabilities, powers, and duties arising on a breach by the authority of a covenant, condition, or obligation; the events of default and terms and conditions on which a bond or obligation is, or may be declared, due before maturity; and the terms and conditions on which the declaration and its consequences may be waived; or

(10) making a covenant to:

(A) replace lost, destroyed, or mutilated bonds; or

(B) create or authorize the creation of special funds for money held for construction or operation costs, debt service, reserves, or other purposes and to provide for the use and disposition of the money held in those funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.088. CERTIFICATION OF ATTORNEY GENERAL. After the

proceedings for the issuance of bonds are complete, an authority may submit to the attorney general the bonds to be issued and the record of the proceedings. The attorney general shall examine and pass on the validity of the bonds and the regularity of the proceedings in connection with the bonds. If the proceedings conform to this chapter and are otherwise regular in form and if the bonds, on delivery and receipt of payment, will be binding and legal obligations of the authority that are enforceable according to their terms, the attorney general shall certify in substance on the back of the bonds that the bonds are issued in accordance with the constitution and the laws of the state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.089. PURCHASE OF BONDS BY AUTHORITY. An authority may purchase its bonds at a price not greater than the principal and accrued interest of the bonds. Bonds purchased by an authority shall be canceled.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.090. COVENANT OF REGIONAL HOUSING AUTHORITY REGARDING AREA OF OPERATION. In connection with the issuance of bonds or the incurring of other obligations, a regional housing authority may make a covenant regarding limitations on its right to adopt resolutions relating to the increase of its area of operation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER F. REMEDIES

Sec. 392.101. REMEDIES OF AN OBLIGEE OF THE AUTHORITY. (a) Subject to contractual restrictions binding on the obligee, an obligee of an authority may compel, by mandamus or other proceeding at law or in equity, the performance by the authority and the commissioners, officers, agents, or employees of the authority of a term, provision, or covenant in a contract of the authority with or for the benefit of the obligee and of the duties of the authority under this chapter.

(b) Subject to contractual restrictions binding on the obligee, an obligee may obtain an injunction, by a proceeding in equity, of an unlawful act or of a violation of a right of the obligee by the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.102. OPTIONAL REMEDIES OF AN OBLIGEE. (a) By resolution, trust indenture, mortgage, lease, or other contract, an authority may confer on an obligee holding or representing a specified amount in bonds or holding a lease the right on default to:

(1) the possession of a housing project or part of a housing project;

(2) the appointment of a receiver of a housing project or part of a housing project and of the rents and profits of the project; or

(3) require the authority and the commissioners of the authority to account as if the authority and commissioners were the trustees of an express trust.

(b) The resolution or other instrument conferring a right under Subsection (a) must define the term "default." The obligee may enforce the right in a proceeding in a court of competent jurisdiction.

(c) A receiver appointed in a proceeding brought under this section may take possession of, operate, maintain, and collect and receive the fees, rents, revenues, or other charges of the project or part of the project. The receiver shall keep the money in one or more separate accounts and apply the money in accordance with the obligations of the authority as the court directs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.103. EXEMPTION OF PROPERTY FROM EXECUTION SALE. (a) The real property of an authority is exempt from levy and sale by execution. An execution or other judicial process may not issue against the property, and a judgment against the authority may not be a charge or lien on the property.

(b) Subsection (a) does not limit the right of an obligee to foreclose or otherwise enforce a mortgage of an authority or to

pursue a remedy for the enforcement of a pledge or lien given by the authority on its rents, fees, or revenues.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 392.104. EFFECT OF CERTAIN PROVISIONS ON OBLIGEE RIGHTS CONFERRED BY AUTHORITY. Sections 392.004 and 392.055 do not limit the power of an authority to vest in an obligee the right, in the event of default by the authority, to take possession of a housing project, obtain the appointment of a receiver for the project, or acquire title to the project through foreclosure, free from the restrictions imposed by those sections.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 393. HOUSING COOPERATION AMONG MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 393.001. SHORT TITLE. This chapter may be cited as the Housing Cooperation Law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 393.002. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature has found in the Housing Authorities Law (Chapter 392) that:

(1) unsafe and unsanitary housing conditions exist in this state for persons of low income;

(2) there is a shortage of safe and sanitary dwellings for those persons;

(3) those conditions require excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and

(4) the public interest requires the remedying of those conditions.

(b) The legislature finds and declares that:

(1) the assistance provided under this chapter to remedy the conditions described in the Housing Authorities Law constitutes a

public purpose and an essential governmental function for which public money may be spent and other aid given;

(2) it is a proper public purpose for a public body to aid a housing authority that operates within the boundaries or jurisdiction of the public body or to aid a housing project within its boundaries or jurisdiction because the public body derives immediate benefits and advantages from the authority or project; and

(3) this chapter is necessary in the public interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 393.003. DEFINITIONS. In this chapter:

(1) "Federal government" includes the United States, the United States Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States.

(2) "Governing body" means the council, commissioners court, board, or other body that is in charge of the fiscal affairs of a public body.

(3) "Housing authority" means an authority created under the Housing Authorities Law (Chapter 392).

(4) "Housing project" means a work or other undertaking of a housing authority in accordance with the Housing Authorities Law or any similar work or other undertaking of the federal government.

(5) "Public body" means a municipality or municipal corporation, county, commission, district, authority, or other subdivision or public body of the state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 393.004. POWERS OF PUBLIC BODY RELATING TO HOUSING PROJECTS. To aid and cooperate in the planning, undertaking, construction, or operation of a housing project located within its jurisdiction, a public body may, on terms established by the public body:

(1) dedicate, sell, convey, or lease any of its property to a housing authority or to the federal government;

(2) provide that parks, playgrounds, other recreational facilities, community facilities, educational facilities, water

facilities, sewer facilities, or drainage facilities, or other works that it has the power to undertake, be furnished adjacent to or in connection with a housing project;

(3) furnish, dedicate, close, pave, install, grade, or plan streets, roads, alleys, sidewalks, or other places that it has the power to undertake;

(4) plan or zone any part of the public body and, in the case of a municipality, change its map;

(5) make exceptions to building regulations or ordinances;

(6) enter agreements for any period with a housing authority or the federal government relating to action to be taken by the public body under the powers granted by this chapter;

(7) enter agreements relating to the exercise of power by the public body relating to the repair, elimination, or closing of unsafe, unsanitary, or unfit dwellings;

(8) provide for the furnishing of services to a housing authority of the type the public body has power to furnish;

(9) purchase or invest in bonds issued by a housing authority;

(10) exercise the rights of a bondholder in relation to any bonds purchased under Subdivision (9); or

(11) take other action necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of a housing project.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 393.005. RESTRICTION ON CERTAIN HOUSING PROJECT CHANGES. A public body may not require changes to be made with respect to a housing project that a housing authority has acquired or taken over from the federal government and that the housing authority by resolution has found and declared to have been constructed in a manner that promotes the public interest and affords the necessary safety, sanitation, and other protection. The public body may not require changes to be made in the manner of the construction of the project and may not take other action relating to that construction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 393.006. PAYMENT OF EXPENSES; CONVEYANCE POWERS. (a) A public body may incur the entire expense of any public improvement made by the public body in exercising powers under this chapter.

(b) A public body may sell, convey, lease, or make an agreement under this chapter without appraisal, public notice, advertisement, or public bidding.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 393.007. PAYMENT CONTRACTS. (a) In connection with a housing project located wholly or partly within its jurisdiction, a public body may contract with a housing authority or with the federal government relating to any amounts that the housing authority or the federal government agrees to pay to the public body during the contract period for the improvements, services, and facilities furnished by the public body for the benefit of the housing project. The amount of those payments may not exceed the estimated cost to the public body of the improvements, services, or facilities.

(b) The absence of a contract for those payments does not relieve the public body from the duty to furnish for the benefit of the housing project the customary improvements and any services and facilities that the public body usually furnishes without a service fee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 393.008. LOANS TO HOUSING AUTHORITY. (a) When a housing authority that is created for a municipality becomes operative, the governing body of the municipality shall immediately estimate the amount necessary for the administrative expenses and overhead of the housing authority during its first year of operation. The governing body shall appropriate that amount to the authority from money in the municipal treasury that is not appropriated for other purposes. The governing body shall pay that amount to the housing authority as a loan.

(b) Any municipality located wholly or partly within the area of operation of a housing authority may lend or agree to lend money to the housing authority at any time.

(c) The housing authority shall repay loans made to it under

this section when it has money available for repayment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 393.009. POWERS AUTHORIZED BY RESOLUTION. (a) The exercise by a public body of the powers granted under this chapter may be authorized by a resolution of its governing body adopted by a majority of the members of the governing body who are present at a meeting. The resolution may be adopted at the meeting at which it is introduced, and the resolution takes effect immediately. However, the exercise of the powers is subject to the conditions prescribed by Section 393.010.

(b) The resolution is not required to be laid over, published, or posted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 393.010. NOTICE OF PROPOSED ACTION; PETITION; ELECTION. (a) An action authorized by this chapter may not be consummated until the governing body of the public body gives notice of its intention to enter into a cooperation agreement with a housing authority. A copy of the notice must be published at least twice in the officially designated newspaper, if any, of the public body. The notice must state that at the expiration of 60 days the governing body will consider the question of whether to enter into a cooperation agreement.

(b) If, during the 60-day period, a petition signed by at least 2,000 of the qualified voters of the public body or by at least five percent of the qualified voters of the public body is presented to the governing body requesting that an election be held on the question, and if the petition is determined to have been signed by the requisite number of qualified voters, the governing body shall order an election to be held in the public body on the question. Two weeks' notice of the election must be given in the manner required by law for elections on the question of issuing tax-supported bonds. If a majority of the votes received in the election favor the cooperation agreement, the governing body shall execute the agreement.

(c) The governing body may also order such an election on its

own motion. If a majority of the votes received in the election favor the cooperation agreement, the governing body may execute the agreement.

(d) If the governing body fails or refuses to give notice of its intention to enter a cooperation agreement with a housing authority or fails or refuses to submit the question to an election as provided by Subsection (c), then, on filing of a petition demanding an election and signed by at least 2,000 of the qualified voters of the public body or by at least five percent of the qualified voters of the public body, the governing body shall order an election to be held in the public body for the purpose of submitting a proposition for the approval of the cooperation agreement. If a majority of the votes received in the election favor the cooperation agreement, the governing body may execute the cooperation agreement.

(e) The laws relating to elections for the issuance of municipal or county bonds as prescribed by Chapter 1251, Government Code, apply to an election covered by this section unless those laws are inconsistent with this section or are superseded by the Election Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.343, eff. Sept. 1, 2001.

CHAPTER 394. HOUSING FINANCE CORPORATIONS IN MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 394.001. SHORT TITLE. This chapter may be cited as the Texas Housing Finance Corporations Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.002. PURPOSE; LEGISLATIVE FINDINGS. (a) The purpose of this chapter is to provide a means to finance the cost of residential ownership and development that will provide decent, safe, and sanitary housing at affordable prices for residents of local governments.

(b) The legislature finds that residential ownership and development:

(1) promotes the public health, safety, morals, and welfare;

(2) relieves conditions of unemployment and encourages the increase of industry, commercial activity, and other economic development to reduce the adverse effects of unemployment;

(3) provides for efficient and well-planned urban growth and development, including the elimination and prevention of potential urban blight and the proper coordination of industrial facilities with public services, mass transportation, and residential development;

(4) assists persons of low and moderate income to acquire and own decent, safe, sanitary, and affordable housing; and

(5) preserves and increases the ad valorem tax bases of local governments.

(c) The legislature finds that the accomplishment of the results described by Subsection (b) is a public purpose and function and lessens the burdens of government. The legislature further finds that:

(1) the creation of a housing finance corporation is for the benefit of the people of the state, improves the public health and welfare, and promotes the economy;

(2) those purposes are public purposes; and

(3) the corporation, as a public instrumentality and nonprofit corporation, performs an essential governmental function on behalf of and for the benefit of the general public, the local government, and this state.

(d) It is the intent of the legislature to authorize local governments to create and use public nonprofit corporations to issue obligations to accomplish the results described by Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.003. DEFINITIONS. In this chapter:

(1) "Bond" means a revenue bond authorized under this chapter and includes a note and any other limited obligation payable as provided by this chapter.

(2) "Development cost" means the sum total of reasonable or necessary costs incidental to the provision, acquisition, construction, reconstruction, rehabilitation, repair, alteration,

improvement, and extension of a residential development. The term includes:

(A) the cost of studies, surveys, plans, and specifications;

(B) underwriting fees;

(C) the cost of architectural, engineering, financial advisory, mortgage banking, and administrative services;

(D) the cost of legal, accounting, marketing, and other special services that relate to residential development or are incurred in connection with the issuance and sale of bonds;

(E) necessary application fees and other fees paid to federal, state, and local government agencies for approvals required for construction, for assisted financing, or for other purposes;

(F) financing, acquisition, demolition, construction, equipment, and site development costs for new and rehabilitated buildings;

(G) relocation costs for utilities, public ways, and parks;

(H) construction costs for recreational, cultural, and commercial facilities;

(I) rehabilitation, reconstruction, repair, or remodeling costs for existing buildings and all other necessary and incidental expenses, including trustee and rating agency fees and an initial bond and interest reserve together with interest on bonds issued to finance a residential development to a date 12 months after the estimated date of completion;

(J) premiums for mortgage insurance or other insurance with respect to bonds; and

(K) other expenses considered appropriate by a housing finance corporation to carry out the purposes of this chapter.

(3) "Economically depressed or blighted area" means:

(A) an area determined by the issuer to be a qualified census tract or an area of chronic economic distress under Section 143, Internal Revenue Code of 1986 (26 U.S.C.A. Section 143);

(B) an area established within a municipality that has a substantial number of substandard, slum, deteriorated, or deteriorating structures, that suffers from a high relative rate of unemployment; or

(C) an area designed and included in a tax increment district created under Chapter 695, Acts of the 66th Legislature,

Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes).

(4) "Elderly person" means a person who is 60 years of age or older.

(5) "Federally assisted new community" means an area:

(A) that receives federal assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C.A. Section 1749aa et seq.); and

(B) a part of which has received grants under Section 107(a)(1), Housing and Community Development Act of 1974 (42 U.S.C.A. Section 5307(a)(1)).

(6) "Home" means real property and improvements on that property consisting of not more than four connected dwelling units, which may include condominium units, located within a local government and owned by one mortgagor who occupies or intends to occupy one of the units.

(7) "Home mortgage" means an interest-bearing loan to a mortgagor, or a participation in such a loan, that is:

(A) made to purchase, improve, or construct a home;

(B) evidenced by a promissory note;

(C) secured by a mortgage, mortgage deed, deed of trust, or other instrument that constitutes a lien on the home; and

(D) except as provided by Section 394.906, guaranteed or insured by the United States, an instrumentality of the United States, or a private mortgage insurance or surety company to the extent the loan amount exceeds 80 percent of the lesser of the appraised value of the home at the time the loan is made or the sale price of the home.

(8) "Housing finance corporation" means a public, nonprofit corporation organized under this chapter.

(9) "Lending institution" means a bank, trust company, savings bank, national banking association, savings and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution or government agency that customarily provides services or assistance in mortgage financing on single family residential housing or multifamily residential housing located in the local government. The term includes a holding company for such an institution.

(10) "Local government" means any municipality or county.

(11) "Mortgagor" means a person of low or moderate income whose adjusted gross aggregate income, together with the adjusted

gross aggregate income of all persons who intend to reside with that person in one dwelling unit, did not, for the preceding tax year, exceed the maximum amount established as constituting moderate income by the housing finance corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds. In an economically depressed or blighted area or in a federally assisted new community located within a home-rule municipality, the term includes:

(A) a person whose adjusted gross aggregate income exceeds the amount constituting moderate income if at least 90 percent of the total mortgage amount available under a home mortgage revenue bond issue is designated for persons of low or moderate income; or

(B) a person permitted to be a mortgagor under Section 143, Internal Revenue Code of 1986 (26 U.S.C.A. Section 143), as it applies to that area or community.

(12) "Person" means, if used in reference to a mortgagor or owner of a home, a natural person or a trust for the benefit of a natural person.

(13) "Residential development" means the acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, or extension of any of the following items or any combination of the following items for the purpose of providing decent, safe, and sanitary housing and nonhousing facilities that are an integral part of or are functionally related to any affordable housing project, whether in one or multiple locations, including any facilities used for the purpose of delivering tenant services, as defined by Section 2306.254, Government Code:

(A) land, an interest in land, a building or other structure, facility, system, fixture, improvement, addition, appurtenance, or machinery or other equipment;

(B) real or personal property considered necessary in connection with an item described by Paragraph (A); or

(C) real or personal property or improvements functionally related and subordinate to an item described by Paragraph (A).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1250, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 113, Sec. 1, eff. May 11, 2001.

Sec. 394.004. APPLICATION OF CHAPTER TO CERTAIN RESIDENTIAL DEVELOPMENTS. This chapter applies only to a residential development at least 90 percent of which is for use by or is intended to be occupied by households of low and moderate income whose adjusted gross income did not for the preceding tax year exceed the maximum amount constituting moderate income as defined under the housing finance corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 1, eff. May 28, 2025.

Sec. 394.0045. APPLICABILITY OF OPEN MEETINGS AND OPEN RECORDS LAWS. (a) Chapter 551, Government Code, applies to actions and proceedings under this chapter.

(b) Chapter 552, Government Code, applies to all records of a housing finance corporation.

Added by Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 2, eff. May 28, 2025.

SUBCHAPTER B. INCORPORATION OF HOUSING FINANCE CORPORATIONS

Sec. 394.011. APPLICATION FOR INCORPORATION. (a) The governing body of a local government shall consider a written application for the incorporation of a housing finance corporation filed with the governing body by at least three residents of the local government who are citizens of this state and at least 18 years of age.

(b) If the governing body by resolution determines that the formation of the housing finance corporation is wise, expedient, necessary, or advisable and approves the form of the proposed articles of incorporation of the corporation, the articles may be filed as provided by this chapter. A corporation may not be formed unless the application is filed with the governing body and the governing body adopts the resolution.

(c) The approval of the articles of incorporation of one housing finance corporation does not preclude the approval by the governing body of the articles of incorporation of additional corporations that have names or designations sufficient to distinguish them from previously created corporations. The governing body may not permit the incorporation on its behalf of more than one corporation that has the power to make or acquire home mortgages, or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.012. APPLICATION FOR INCORPORATION OF, AND OTHER SPECIAL PROVISIONS FOR, JOINT CORPORATION. (a) The governing bodies of more than one local government may consider a written application for the incorporation of a joint housing finance corporation to act on behalf of the local governments filed by at least three residents of each sponsoring local government who are citizens of this state and at least 18 years of age.

(b) If each governing body by resolution determines that the formation of the joint housing finance corporation is wise, expedient, necessary, or advisable and approves the form of the proposed articles of incorporation of the joint corporation, the articles may be filed as provided by this chapter. The joint corporation may not be formed unless the application is filed with the governing body of each sponsoring local government and each governing body adopts the resolution.

(c) The approval of the articles of incorporation of the joint housing finance corporation does not preclude the approval by the governing body of the articles of incorporation of additional corporations that have names or designations sufficient to distinguish them from previously created corporations. A governing body that creates the joint corporation may not later create a corporation that has the power to make home mortgages or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments.

(d) Each incorporator or director of the joint housing finance corporation must reside in a sponsoring local government. The

initial directors of the joint corporation shall be appointed by all the sponsoring local governments. Succeeding directors shall be appointed by one or more of the sponsoring local governments as provided in the articles of incorporation or the bylaws of the joint corporation.

(e) The sponsoring local governments of the joint housing finance corporation are considered to be one local government for the purposes of this chapter. If the action of the governing body of a local government is required, this chapter requires the action to be taken by the governing body of each sponsoring local government of the joint corporation.

(f) The joint housing finance corporation has all the powers granted to a housing finance corporation under this chapter. The joint corporation acts on behalf of each of the sponsoring local governments as provided by the articles of incorporation.

(g) The net earnings of the joint housing finance corporation and funds and properties of the joint housing finance corporation on dissolution shall be disbursed to the sponsoring local governments as provided by the articles of incorporation.

(h) For the purposes of determining the applicable population for Section 1372.026, Government Code, the joint housing finance corporation may only consider areas in its own state planning region.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1420, Sec. 10, eff. June 20, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.344, eff. Sept. 1, 2001.

Sec. 394.013. INCORPORATORS. Three or more residents of the local government who are at least 18 years of age may act as incorporators of the housing finance corporation by signing, verifying, and delivering in duplicate to the secretary of state the articles of incorporation for the corporation. An incorporator may be a member of the governing body, an officer, or an employee of the local government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.014. ARTICLES OF INCORPORATION. (a) The articles of incorporation of the housing finance corporation must contain:

(1) the name of the corporation;

(2) a statement that the corporation is a public, nonprofit corporation;

(3) the period of duration, which may be perpetual;

(4) a statement that the corporation is organized solely to carry out the purposes of this chapter;

(5) a statement that the corporation is to have no members;

(6) any provision not inconsistent with law, including any provision required or permitted under this chapter to be included in the bylaws, for the regulation of the internal affairs of the corporation;

(7) the street address of the corporation's initial registered office, which must be located in the local government, and the name of its initial registered agent at that address;

(8) the number of directors constituting the initial board of directors and the names and addresses of those directors, with a statement that each of them resides in the local government;

(9) the name and street address of each incorporator with a statement that each of them resides in the local government; and

(10) a statement that a resolution approving the form of the articles of incorporation has been adopted by the governing body of the local government and the date of the adoption of the resolution.

(b) A housing finance corporation may exercise any power prescribed by this chapter regardless of whether the power is stated in its articles of incorporation. The articles may prohibit the exercise of any power prescribed by this chapter.

(c) Unless the articles of incorporation provide that a change in the number of directors may be made only by amendment to the articles, a change in the number of directors may be made by an amendment to the bylaws. In all other cases if a provision of the articles is inconsistent with the bylaws, the articles provision controls.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.015. FILING OF ARTICLES OF INCORPORATION; ISSUANCE OF CERTIFICATE OF INCORPORATION. (a) Duplicate originals of the articles of incorporation must be delivered to the secretary of

state. If the secretary of state finds that the articles of incorporation conform to this chapter, the secretary shall, when a $25 fee is paid:

(1) endorse on each duplicate original the word "Filed" and the date of the filing;

(2) file one of the duplicate originals in the office of the secretary of state; and

(3) issue a certificate of incorporation, to which the secretary shall affix the other duplicate original.

(b) The secretary of state shall deliver the certificate of incorporation, with the affixed duplicate original, to the incorporators or their representatives.

(c) On the issuance of the certificate of incorporation, corporate existence begins. The certificate of incorporation is conclusive evidence that all conditions precedent required to be performed by the local government and the incorporators have been met and that the housing finance corporation is properly incorporated under this chapter.

(d) The housing finance corporation constitutes a public instrumentality and a nonprofit corporation under the name stated in the articles of incorporation. The corporation does not constitute a municipality, county, or other political corporation or subdivision of this state. The corporation may issue bonds and carry out the public purposes for which it is incorporated on behalf of and for the benefit of the general public, the local government, and this state.

(e) A copy of the articles of incorporation shall be delivered to the Texas Department on Aging.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.016. AMENDMENT OF ARTICLES OF INCORPORATION. (a) The articles of incorporation may be amended at any time in the manner provided by this section.

(b) The board of directors of the housing finance corporation may file a written application with the governing body of the local government requesting permission to amend the articles and specifying the proposed amendment. The governing body shall consider the application. If the governing body by resolution determines that the making of an amendment is wise, expedient, necessary, or advisable,

authorizes the amendment, and approves the form of the amendment the board of directors may amend the articles by adopting the amendment at a meeting and delivering articles of amendment to the secretary of state.

(c) At a meeting, the governing body in its sole discretion may amend the articles of incorporation to change the structure, organization, programs, or activities of the housing finance corporation, including the power to terminate the corporation, subject to any limitation on the impairment of contracts. The governing body shall deliver the articles of amendment to the secretary of state.

(d) The articles of amendment must be executed in duplicate. The president or vice-president of the housing finance corporation and the secretary or assistant secretary of the corporation must execute articles of amendment adopted by the board of directors. The presiding officer of the governing body of the local government and the local government's secretary or clerk must execute articles of amendment adopted by the governing body. The articles of amendment must be verified by one of the officers signing the articles. The articles of amendment must contain:

(1) the name of the corporation;

(2) if the amendment alters an original or amended provision of the articles of incorporation, an identification by reference to or description of the altered provision and a statement of the text as amended;

(3) if the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of the added provision; and

(4) the date of the meeting of the board of directors or the governing body at which the amendment was adopted and a statement that the amendment received a majority vote of the corporation's directors or the governing body's members in office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.017. FILING OF ARTICLES OF AMENDMENT; ISSUANCE OF CERTIFICATE OF AMENDMENT. (a) Duplicate originals of the articles of amendment must be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to

law, the secretary shall, when a $25 fee is paid:

(1) endorse on each duplicate original the word "Filed" and the date of the filing;

(2) file one of the duplicate originals in the office of the secretary of state; and

(3) issue a certificate of amendment, to which the secretary shall affix the other duplicate original.

(b) The secretary of state shall deliver the certificate of amendment, with the affixed duplicate original, to the housing finance corporation or its representative.

(c) On the issuance of the certificate of amendment, the amendment takes effect and the articles of incorporation are amended accordingly.

(d) An amendment does not affect an existing cause of action or any pending action to which the housing finance corporation is a party, or the existing rights of persons other than members. If the amendment changes the housing finance corporation's name, the change does not abate a suit brought by or against the corporation under its former name.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. CORPORATE ADMINISTRATION AND OPERATION

Sec. 394.021. BOARD OF DIRECTORS. (a) A housing finance corporation must have a board of directors in which all the powers of the corporation are vested. The board may consist of any number of directors, all of whom must be residents of the local government. A director may be a member of the governing body, an officer, or an employee of the local government.

(b) Members of the initial board of directors hold office for the period specified in the articles of incorporation. After the initial directors, the governing body of the local government shall appoint directors in the manner and for the terms provided by the articles of incorporation or the bylaws. Directors may be divided into classes, and the terms of office of the various classes may differ.

(c) Each director shall hold office for the term for which the director is elected or appointed and until the director's successor is elected or appointed and has qualified. A director may be removed

from office under any removal procedure provided by the articles of incorporation or the bylaws. The governing body shall fill any vacancy in the board of directors by appointment in the manner provided by the articles of incorporation or the bylaws.

(d) A majority of the directors constitutes a quorum. The directors may take action by a majority vote when a quorum is present. Board meetings may be held inside or outside this state. A regular meeting may be held with or without notice as provided by the bylaws. A special meeting may be held on notice as provided by the bylaws.

(e) The officers of a housing finance corporation consist of a president, one or more vice-presidents, a secretary, a treasurer, and other officers and assistant officers as considered necessary. Each officer shall be elected or appointed in the manner and for the term provided by the articles of incorporation or the bylaws.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.022. ORGANIZATIONAL MEETING. (a) After the issuance of the certificate of incorporation, the board of directors named in the articles of incorporation, at the call of a majority of the incorporators, shall hold an organizational meeting to adopt bylaws, elect officers, and consider other issues that come before the meeting. The meeting may be held inside or outside this state.

(b) The incorporators who call the meeting must give at least three days' notice of the meeting to each director by mailing to the director a notice that states the time and place of the meeting.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.023. DISPOSITION OF CORPORATE EARNINGS. (a) The housing finance corporation may not pay dividends. The net earnings of the corporation may not be distributed to or benefit the directors or officers of the corporation or any person except as reasonable compensation for services rendered to the corporation.

(b) If the board of directors determines that sufficient provision has been made for full payment of the expenses, bonds, and other obligations of the corporation, any net corporate earnings accruing after the determination shall be paid to the local

government. The local government shall use amounts received under this subsection only to provide for the housing needs of individuals and families of low and moderate incomes, including single-family units and mixed income multifamily projects found by the local government to serve the interests of low and moderate income individuals and families if the single-family and multifamily projects have as a major purpose the provision of safe, sanitary, and decent housing for individuals and families of low income.

(c) This section does not prohibit the board of directors from transferring corporate property as provided by a contract made by the corporation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 951, Sec. 7, eff. June 16, 1995.

Sec. 394.024. REGISTERED OFFICE AND AGENT. The housing finance corporation shall maintain a registered office and a registered agent as provided by Article 2.05, Texas Non-Profit Corporation Act (Article 1396-2.05, Vernon's Texas Civil Statutes). The corporation may change its registered office or agent as provided by Article 2.06 of that Act. Process may be served on the corporation as provided by Article 2.07 of that Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.025. CORPORATE BOOKS AND RECORDS. A housing finance corporation shall keep complete books and records of account and shall keep minutes of the proceedings of its board of directors.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.026. DISSOLUTION OF CORPORATION. (a) If the board of directors determines by resolution that the purposes for which the housing finance corporation was formed have been substantially met and that all bonds issued by and all obligations incurred by the corporation have been fully paid, the directors shall execute a certificate of dissolution stating those facts and declaring that the corporation is dissolved. The directors shall file the certificate

for recording in the office of the secretary of state. The directors shall execute the certificate under the corporation's seal.

(b) On the filing of the certificate of dissolution, the corporation is dissolved. The title to all funds and property owned by the corporation at the time of dissolution vests in the local government to be used exclusively by the local government to provide for the housing needs of individuals and families of low and moderate incomes, including single-family units and mixed income multifamily projects found by the local government to serve the interests of low and moderate income individuals and families if the single-family and multifamily projects have as a major purpose the provision of safe, sanitary, and decent housing for individuals and families of low income. The funds and property shall be promptly delivered to the local government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 951, Sec. 8, eff. June 16, 1995.

Sec. 394.027. ANNUAL REPORT. (a) Before August 31 of each year, a housing finance corporation shall file with the Texas Department of Housing and Community Affairs a report in accordance with this section. The department by rule shall prescribe the form of the report.

(b) The report must include for each single-family home mortgage loan made by the housing finance corporation during the preceding 12 months ending June 30 of the year the report is filed, the data reported by originating lenders under the Federal Home Mortgage Disclosure Act.

(c) The report must include for persons residing in multifamily housing units financed by the housing finance corporation information similar to the geographic and demographic information contained in the Texas Department of Housing and Community Affairs compliance monitoring form and tenant income certification, including household size, total household income, and project location.

Added by Acts 1995, 74th Leg., ch. 951, Sec. 9, eff. June 16, 1995.

SUBCHAPTER D. CORPORATE POWERS

Sec. 394.031. EXERCISE OF POWERS; AREA OF OPERATION. (a) A

housing finance corporation may exercise any powers incidental to or necessary for the performance of the powers prescribed by this subchapter and may exercise other powers necessary or appropriate to carry out the purposes for which the corporation is organized.

(b) A housing finance corporation may exercise powers under this chapter by resolution of the board of directors. The resolution takes effect immediately on adoption.

(c) Subject to Subsection (d), the area in which a housing finance corporation may own real property for residential development or engage in residential development is limited to:

(1) for a housing finance corporation sponsored by a municipality under Section 394.011, the boundaries of the municipality that sponsored the corporation;

(2) for a housing finance corporation sponsored by a county under Section 394.011, the boundaries of the county that sponsored the corporation; or

(3) for a housing finance corporation sponsored by more than one local government under Section 394.012:

(A) the boundaries of each municipal sponsor of the corporation; and

(B) the boundaries of each county sponsor of the corporation.

(d) A housing finance corporation may own real property for residential development or engage in residential development outside an area described by Subsection (c) only if a resolution or order, as applicable, approving that ownership or development in the outside area is adopted by the governing bodies of:

(1) each municipality that contains any part of the outside area in which the corporation proposes to own real property for residential development or engage in residential development;

(2) for a residential development or home located in the unincorporated area of a county, each county that contains any part of the outside area in which the corporation proposes to own real property for residential development or engage in residential development; and

(3) any housing finance corporation sponsored by a municipality or county described by Subdivision (1) or (2), as applicable.

(e) This section does not prohibit or limit a housing finance corporation from owning real property outside an area described by

Subsection (c) or (d) if the property is not owned for purposes of residential development.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 3, eff. May 28, 2025.
Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 4, eff. May 28, 2025.

Sec. 394.032. GENERAL POWERS. (a) A housing finance corporation may:

(1) make contracts and other instruments as necessary or convenient to the exercise of powers under this chapter;

(2) incur liabilities;

(3) borrow money at rates determined by the corporation;

(4) issue notes, bonds, and other obligations; and

(5) secure any of its obligations by the mortgage or pledge of all or part of the corporation's property, franchises, and income.

(b) A housing finance corporation may plan, research, study, develop, and promote the establishment of residential development.

(c) A housing finance corporation may make donations for the public welfare or for charitable, scientific, or educational purposes.

(d) A housing finance corporation may enter into contracts to perform services for any other housing finance corporation or any individual or entity acting on behalf of any other housing finance corporation or, with respect to residential development, any housing authority, nonprofit enterprise, or similar entity.

(e) A housing finance corporation may delegate to the Texas Department of Housing and Community Affairs the authority to act on its behalf in the financing, refinancing, acquisition, leasing, ownership, improvement, and disposal of home mortgages or residential developments, including its authority to issue bonds for those purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 258, Sec. 1, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1420, Sec. 11, eff. June 20, 1997.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 5, eff. May 28, 2025.

Sec. 394.033. CORPORATE NAME; DURATION; SEAL. (a) A housing finance corporation may have perpetual succession under its corporate name, unless a limited period of duration is stated in the articles of incorporation, and may sue and be sued, and complain and defend, under its corporate name.

(b) A housing finance corporation may have a corporate seal, which may be altered at will, and may use the seal by causing it, or a facsimile of it, to be impressed on, affixed to, or otherwise reproduced on any instrument required to be executed by the corporation's officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.034. OFFICERS; AGENTS. A housing finance corporation may elect or appoint corporate officers or agents for a period determined by the corporation, define their duties, and may set their compensation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.035. BYLAWS. A housing finance corporation may make, amend, and repeal bylaws, not inconsistent with the articles of incorporation or this chapter, for the administration and regulation of the corporation's affairs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.036. ACCEPTANCE OF FINANCIAL ASSISTANCE. (a) A housing finance corporation may apply for and accept, on its own behalf or on behalf of another person, advances, loans, grants, contributions, guarantees, rent supplements, mortgage assistance, and other forms of financial assistance from the federal government, the state, a county, a municipality, or any other public or quasi-public body, corporation, or foundation, or from any other public or private

source, for any of the purposes of this chapter.

(b) The corporation may include reasonable and appropriate terms, not inconsistent with the purposes of this chapter, in any contract for financial assistance obtained under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.037. BONDS. (a) A housing finance corporation may issue bonds to defray, in whole or in part:

(1) the development costs of a residential development;

(2) the costs of purchasing or funding the making of home mortgages, either on a first-come, first-served basis or by selling lender commitments, including the costs of studies and surveys, insurance premiums, financial advisory services, mortgage banking services, administrative services, underwriting fees, legal services, accounting services, and marketing services incurred in connection with the issuance and sale of the bonds, including bond and interest reserve accounts, capitalized interest accounts, and trustee, custodian, and rating agency fees; or

(3) any other costs associated with the provision of decent, safe, and sanitary housing and nonhousing facilities that are an integral part of or are functionally related to an affordable housing project.

(a-1) A housing finance corporation may issue bonds under this chapter for a purpose described by Subsection (a) only to finance or support a residential development or home that is located or will be constructed:

(1) within the boundaries of a local government in which a housing finance corporation is permitted to own real property for residential development or engage in residential development under Section 394.031(c); or

(2) outside the boundaries of a local government described by Subdivision (1) if a resolution or order, as applicable, approving the issuance of bonds is adopted by the governing body of:

(A) each municipality that contains any part of the residential development or home; and

(B) for a residential development or home located in the unincorporated area of a county, each county that contains any part of the residential development or home.

(b) The corporation may pledge all or a part of the revenues, receipts, or resources of the corporation, including any revenues or receipts received from residential development or home mortgages, to the prompt payment of bonds authorized under this chapter and to the interest and any redemption premiums on those bonds. It may issue bonds to refund in whole or in part at any time any bonds previously issued under this chapter by the corporation.

(c) The corporation may designate appropriate names for bonds issued under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1420, Sec. 12, eff. June 20, 1997; Acts 2001, 77th Leg., ch. 113, Sec. 2, eff. May 11, 2001.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 6, eff. May 28, 2025.

Sec. 394.038. ACQUISITION OF SHARES OR OBLIGATIONS. A housing finance corporation may purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell, or otherwise dispose of, and otherwise use and deal in and with:

(1) shares and other interests in or obligations of other domestic or foreign corporations, whether profit or nonprofit, associations, partnerships, or individuals; or

(2) direct or indirect obligations of the United States or of any other government, state, political subdivision of a state, territory, government district, or any instrumentality of such a governmental entity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.039. SPECIFIC POWERS RELATING TO FINANCIAL AND PROPERTY TRANSACTIONS. Subject to Sections 394.031(c), (d), and (e), a housing finance corporation may:

(1) lend money for its corporate purposes, invest and reinvest its funds, and take and hold real or personal property as security for the payment of the loaned or invested funds;

(2) mortgage, pledge, or grant security interests in any

residential development, home mortgage, note, or other property in favor of the holders of bonds issued for those items;

(3) purchase, receive, lease, or otherwise acquire, own, hold, improve, use, or deal in and with real or personal property or interests in that property, as required by the purposes of the corporation or as donated to the corporation; and

(4) sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or part of its property and assets.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 7, eff. May 28, 2025.

Sec. 394.040. TRANSACTIONS WITH LENDING INSTITUTIONS. (a) A housing finance corporation may make, contract to make, but is not required to make, and enter into advance commitments to make home mortgages originated, administered, and serviced by lending institutions. It may pay the reasonable value of services rendered under those contracts. It may acquire, contract to acquire, and enter into advance commitments to acquire, by assignment or other means, home mortgages owned by lending institutions at purchase prices and on other terms determined by the corporation or its agent.

(b) The corporation may require each lending institution from which home mortgages are proposed to be purchased or to which loans are made to submit evidence satisfactory to the corporation of the ability and intention of the lending institution to make home mortgages, and require the submission, within the time specified by the corporation for making disbursements for home mortgages, of evidence satisfactory to the corporation of the making of home mortgages and of the compliance with the standards and requirements established by the corporation under Section 394.041.

(c) The corporation may make loans to lending institutions under terms that, in addition to other provisions determined by the corporation, require:

(1) the institutions to use substantially all of the net proceeds of the loans, directly or indirectly, to make home mortgages in an aggregate principal amount substantially equal to the amount of

the net proceeds; and

(2) the loans to be fully secured, to the extent not secured by home mortgages, in the same manner as deposits of public funds of the local government.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1420, Sec. 13, eff. June 20, 1997.

Sec. 394.041. STANDARDS FOR MORTGAGES OR LOANS. A housing finance corporation may establish by rule, in resolutions or financing documents relating to the issuance of bonds, standards and requirements applicable to making or purchasing home mortgages or making loans to lending institutions as considered necessary or desirable by the corporation, including standards and requirements related to:

(1) the time within which lending institutions must make commitments and disbursements for home mortgages;

(2) the location and other characteristics of homes financed by home mortgages;

(3) the terms of home mortgages made or acquired;

(4) the amounts and types of insurance coverage required on homes, home mortgages, and bonds;

(5) the representations and warranties of lending institutions confirming compliance with the standards and requirements;

(6) restrictions as to interest rates and other terms of home mortgages or as to the return realized on those mortgages by lending institutions;

(7) the type and amount of collateral security required on a loan from the corporation and to assure repayment of bonds; and

(8) other matters regarding the making or purchasing of home mortgages or the making of loans to lending institutions as the corporation considers relevant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.042. DISPOSAL OF RESIDENTIAL DEVELOPMENTS OR HOME MORTGAGES. (a) A housing finance corporation may sell and convey any residential development or home mortgage, including a sale and

conveyance subject to a mortgage, pledge, or security interest, as provided in the resolution relating to the issuance of bonds and for the prices and at the times determined by the board of directors.

(b) The corporation may rent, lease, sell, or otherwise dispose of any residential development or home mortgages in whole or in part, or lend sufficient funds to any person to defray in whole or in part the development costs of any residential development or the costs of purchasing home mortgages, so that the rent or other revenue derived from the residential development or home mortgages, combined with any insurance proceeds, reserve accounts, and earnings on those accounts, is designed to produce revenues and receipts at least sufficient to provide for the prompt payment on maturity of principal, interest, and any redemption premiums on bonds issued to finance those costs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. HOUSING FINANCE CORPORATION BONDS

Sec. 394.051. BONDS; INVESTMENT. (a) A housing finance corporation may issue its bonds by resolution of the board of directors for the purposes prescribed by this chapter. The resolution takes effect immediately on adoption. The bonds bear interest at a rate authorized by Chapter 1204, Government Code, and are subject to the following terms provided by the resolution:

(1) the time at which the bonds are payable;

(2) the number of series in which the bonds are issued;

(3) the dates that the bonds bear;

(4) the time of maturity of the bonds;

(5) the medium of payment and the place of payment of the bonds;

(6) any registration privileges;

(7) terms of redemption at certain premiums;

(8) manner of execution of the bonds;

(9) covenants and other terms of the bonds; and

(10) the form of the bonds, either coupon or registered.

(b) The bonds may be sold at public or private sale in the manner and on the terms provided by the resolution. Pending the preparation of definitive bonds, any interim receipts or certificates in the form and with the provisions provided by the resolution may be issued to the purchasers of bonds sold under this chapter.

(c) The aggregate principal amount of bonds that a housing finance corporation may issue in a calendar year to defray costs described by Section 394.037(a)(2) may not exceed the total of:

(1) the cost of issuance of the bonds, any reserves or capitalized interest required by the resolutions authorizing the bonds, plus any bond discounts; and

(2) the largest of:

(A) $20 million;

(B) the product of $150 and the population of the local government as determined by the corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of the bonds; or

(C) an amount equal to 25 percent of the total dollar amount of the market demand for home mortgages during that calendar year as determined by the corporation's rules, resolutions relating to the issuance of bonds, or financing documents relating to the issuance of the bonds.

(d) A determination made under Subsection (c)(2)(B) or (c)(2)(C) is conclusive.

(e) The housing finance corporation shall notify the Texas Department on Aging of each bond issuance and shall deliver to the department a copy of each certificate of resolution authorizing the issuance and any other information required by the department.

(f) The housing finance corporation, or any trustee or custodian on behalf of the corporation, may invest any funds held by it as provided by the resolution authorizing the issuance of the bonds.

(g) The housing finance corporation is not required to acquire or hold title to a residential development, a home mortgage, or any interest in the development or mortgage.

(h) The housing finance corporation is not required to sell commitments to lenders to originate home mortgages. A housing financing corporation may establish a program so that lenders will utilize the proceeds of the bonds to originate home mortgages on a first-come, first-served basis.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1420, Sec. 14, eff. June 20, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.345, eff. Sept. 1, 2001.

Sec. 394.052. BOND COVENANTS. (a) A resolution authorizing the issuance of bonds under this chapter may contain covenants relating to:

(1) the use and disposition of the bond proceeds and of the revenue and receipts from any residential development or home mortgages for which the bonds are issued, including the creation and maintenance of reserves;

(2) the issuance of other or additional bonds relating to any residential development or to any rehabilitation, improvement, renovation, or enlargement of, or addition to, a residential development;

(3) the maintenance and repair of a residential development or any homes;

(4) the insurance carried on any residential development, home, home mortgage, or bonds, and the use and disposition of insurance money;

(5) the appointment of one or more banks or trust companies located inside or outside this state that have the necessary trust powers as trustee or custodian for the benefit of the bondholders, paying agent, or bond registrar, and the investment of any funds held by the trustee or custodian;

(6) the appointment of one or more mortgage bankers to provide necessary administrative and mortgage servicing functions to assure the proper administration of the corporation's portfolio of home mortgage loans for the benefit of the bondholders;

(7) the maximum interest rate payable on any home mortgage; and

(8) the terms on which the bondholders or the trustees for the bonds are entitled to the appointment of a receiver by a court of competent jurisdiction.

(b) The terms established under Subsection (a)(8) relating to the appointment of a receiver may provide that the receiver may:

(1) enter and take possession of all or part of the residential development or home mortgage;

(2) maintain, lease, sell, or otherwise dispose of the development or mortgage;

(3) prescribe rentals or other payments; and

(4) collect, receive, and apply all income and other revenues that arise from the development or mortgage after the receiver takes possession.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.053. VALIDITY OF BONDS; SIGNATURES. (a) Bonds issued under this chapter must bear the actual or facsimile signature of the housing finance corporation's officers designated in the resolution authorizing the bonds. The validity of a signature of an officer of the corporation is not affected by the fact that before the delivery of the bond or its payment, a person whose signature appears on the bond ceases to be an officer.

(b) The validity of the bonds is not dependent on or affected by the validity or regularity of any proceedings relating to the residential development or home mortgages for which the bonds are issued.

(c) The resolution authorizing the bonds may require that the bonds contain a statement that they are issued under this chapter. The statement is conclusive evidence of the validity of the bonds and the regularity of their issuance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.054. SECURITY FOR BONDS. (a) A resolution authorizing the issuance of bonds under this chapter may require that the principal of and interest on the bonds be secured by a mortgage, pledge, security interest, insurance agreement, or indenture of trust that covers the residential development or home mortgages for which the bonds are issued and may include any improvements or extensions made after the bonds are issued. A security instrument may contain covenants and agreements to properly safeguard the bonds as provided by the resolution authorizing the bonds and shall be executed in the manner provided by the resolution.

(b) This chapter, the resolution, and the mortgage, pledge, security interest, or indenture of trust constitute a contract with the bondholders that continues in effect until the principal of and interest on the bonds and any redemption premiums have been fully paid or provision for payment has been made.

(c) The resolution, the mortgage, pledge, security interest, or indenture of trust, and the duties under this chapter of the housing finance corporation and its officers and other authorities are

enforceable as provided by the resolution, the instrument, or this chapter by any bondholder by mandamus, by foreclosure of the mortgage, pledge, security interest, or indenture of trust, or by any other appropriate action in a court of competent jurisdiction. The resolution or the mortgage, pledge, security interest, or indenture of trust may provide that the remedies and rights to enforcement may be vested in a trustee, with full power of appointment, for the benefit of all the bondholders. The trustee is subject to the control of a number of bondholders or bond owners as provided in the resolution or instrument.

(d) Bonds issued under this chapter may be secured by a pledge of or a lien on all or part of the revenues, receipts, or other resources of the housing finance corporation, including the revenues and receipts derived from the residential development or home mortgages or from any notes or other obligations of lending institutions with respect to which the bonds have been issued. The board of directors may provide in the resolution authorizing the bonds for the issuance of additional bonds equally and ratably secured by a lien on the revenues and receipts or may provide that the lien on the revenues and receipts is subordinate. Subordinate lien bonds may also be issued unless prohibited by a bond resolution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.055. LIABILITY FOR BONDS AND CONTRACTS; DEBT NOT CREATED. (a) Bonds issued under this chapter are limited obligations of the housing finance corporation and are payable solely from the revenue, receipts, and other resources pledged to their payment. A bondholder may not compel the local government to pay the bond, the interest, or any redemption premium.

(b) The local government and this state are not liable in any way regarding bonds issued by the housing finance corporation. An agreement or obligation of the corporation does not constitute, within the meaning of a statutory or constitutional provision, an agreement, obligation, or debt of the state or the local government.

(c) The bonds do not constitute, within the meaning of a statutory or constitutional provision, an indebtedness, an obligation, or a loan of credit of the state, the local government, or any other municipality, county, or other municipal or political

corporation or subdivision of the state. The bonds do not create a moral obligation on the part of any of those governmental entities with respect to the payment of the bonds. Those governmental entities may not make payments with respect to the bonds.

(d) The face of each bond must plainly state that it has been issued under this chapter and that it does not constitute, within the meaning of any statutory or constitutional provision, an indebtedness, an obligation, or a loan of credit of the state, the local government, or any other municipality, county, or other municipal or political corporation or subdivision of the state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.056. BOND AS SECURITY. (a) A bond issued under this chapter or a coupon representing interest on the bond is, when delivered, a security as that term is defined under Chapter 8 of the Uniform Commercial Code (Chapter 8, Title 1, Business & Commerce Code) and is an exempt security under The Securities Act (Title 12, Government Code).

(b) A contract made under this chapter is not a security under The Securities Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.36, eff. January 1, 2022.

Sec. 394.057. BOND AS AUTHORIZED INVESTMENT OR AS SECURITY FOR DEPOSIT. (a) Bonds issued under this chapter are legal and authorized investments for any bank, savings bank, trust company, savings and loan association, insurance company, fiduciary, trustee, guardian, or sinking fund of a municipality, county, school district, or other political corporation or subdivision of the state.

(b) The bonds are eligible to secure the deposit of any public funds of this state or of a municipality, county, school district, or other political corporation or subdivision of the state, and are lawful and sufficient securities for the deposits at face value if accompanied by all unmatured coupons, if any, appurtenant to the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 394.901. DESIGNATION OF AREA AS ECONOMICALLY DEPRESSED OR BLIGHTED; NOTICE. (a) To designate an area as economically depressed or blighted under the meaning provided by Section 394.003(3)(B) or (C), the governing body of the affected municipality must hold a public hearing and must find that the area substantially impairs or arrests the sound growth of the municipality or that it constitutes an economic or social liability and is, in its current condition and use, a menace to the public health, safety, morals, or welfare.

(b) The governing body shall give notice of the hearing as provided by Chapter 551, Government Code, except that the notice must be published at least 10 days before the date of the hearing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(78), eff. Sept. 1, 1995.

Sec. 394.902. HOUSING FOR ELDERLY. (a) The housing finance corporation shall require that at least five percent of the units in a multifamily residential development be built or renovated and be reserved for the lifetime of the development for occupancy by elderly persons of low income or by families of low or moderate income in which an elderly person is the head of a household if the development:

(1) contains at least 20 units; and

(2) is financed by bonds issued under this chapter as a result of an official decision to issue bonds that occurs on or after January 1, 1986.

(b) Instead of requiring a reservation of units as required under Subsection (a), the housing finance corporation may collect a fee equal to one-tenth percent of the total principal amount of the loan made for the multifamily residential development. The corporation shall collect the fee from the person who receives the loan at the time the loan is delivered. Immediately after the receipt of the fee, the corporation shall remit the fee to the Texas Department on Aging. The department shall deposit all funds received

under this subsection to the credit of a special account in the general revenue fund. Funds in the special account may be used only to assist in obtaining housing for elderly persons or families in which an elderly person is the head of a household.

(c) If the housing finance corporation requires a reservation under Subsection (a), the design engineer for the development must certify to the corporation that the reserved units in the development meet standards set by the Texas Department on Aging for elderly persons.

(d) The governing body of the local government that authorizes, sponsors, or otherwise participates in the creation of the housing finance corporation shall cooperate with the Texas Department on Aging to implement this section and shall submit to the department an annual report relating to the number of developments financed under this chapter, the number of units reserved for the elderly persons or for families in which an elderly person is the head of the household, the amount of fees collected, and other information required by the department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.9025. MULTIFAMILY RESIDENTIAL DEVELOPMENT. (a) Following a public hearing by the governing body of the applicable local government, a housing finance corporation may, subject to the geographic limitations of Section 394.037(a-1), issue bonds to finance a multifamily residential development to be owned by the housing finance corporation if:

(1) at least 50 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 80 percent of the area median family income; or

(2) the units in the multifamily residential development are reserved in the manner provided by Section 394.9026(c)(1).

(b) Following a public hearing by the governing body of the applicable local government, a housing finance corporation may, subject to the geographic limitations of Section 394.037(a-1), issue bonds to finance a multifamily residential development to be owned by the housing finance corporation in accordance with Section 394.004 if the housing finance corporation receives approval of the governing

body of the local government.

Added by Acts 2001, 77th Leg., ch. 1493, Sec. 3, eff. Aug. 31, 2002.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 8, eff. May 28, 2025.

Sec. 394.9026. ADDITIONAL CONDITIONS FOR BENEFICIAL AD VALOREM TAX TREATMENT RELATING TO CERTAIN MULTIFAMILY RESIDENTIAL DEVELOPMENTS. (a) In this section:

(1) "Housing choice voucher program" means the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

(2) "Housing finance corporation user" means:

(A) a housing finance corporation; or

(B) for a multifamily residential development that is not owned directly by a housing finance corporation, a public-private partnership entity or a developer or other person or entity that has an ownership interest or a leasehold or other possessory interest in multifamily residential development financed or supported by a housing finance corporation.

(3) "Lower income housing unit" means a residential unit reserved for occupancy by an individual or family earning not more than 60 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development.

(4) "Maximum market rent" means, with respect to a particular income-restricted unit, the average annual rent charged for all non-income-restricted units in the development having the same or substantially similar floor plan as the income-restricted unit.

(5) "Middle income housing unit" means a residential unit reserved for occupancy by an individual or family earning not more than 100 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development.

(6) "Moderate income housing unit" means a residential unit reserved for occupancy by an individual or family earning not more than 80 percent of the area median income, adjusted for family size,

as defined by the United States Department of Housing and Urban Development.

(7) "Multifamily residential development" means any residential development consisting of four or more residential units intended for occupancy as rentals, regardless of whether the units are attached or detached.

(8) "Rent" means any recurring fee or charge a tenant is required to pay as a condition of occupancy, including a fee or charge for the use of a common area or facility reasonably associated with residential rental property. The term does not include fees and charges for services or amenities that are optional for a tenant, such as pet fees and fees for storage or covered parking.

(9) "Rent reduction" means the projected difference between the rent charged for an income-restricted unit and the maximum market rent that could be charged for that same unit without the income restrictions.

(10) "Very low income housing unit" means a residential unit reserved for occupancy by an individual or family earning not more than 50 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development.

(b) This section does not apply to a multifamily residential development that is the recipient of a low income housing tax credit allocated under Subchapter DD, Chapter 2306, Government Code.

(c) Subject to Subsection (g), an ad valorem tax exemption under Section 394.905 for a multifamily residential development owned by a housing finance corporation is available only if the other requirements of this chapter are satisfied and if:

(1) at least:

(A) 10 percent of the units in the development are reserved for occupancy as lower income housing units and at least 40 percent of the units in the development are reserved for occupancy as moderate income housing units; or

(B) 10 percent of the units in the development are reserved for occupancy as very low income housing units and at least 40 percent of the units in the development are reserved for occupancy as middle income housing units;

(2) the rent reduction at the development in the preceding tax year was:

(A) not less than 50 percent of the amount of the

estimated ad valorem taxes that would have been imposed on the applicable property in the same preceding tax year if the property did not receive an exemption from those taxes under Section 394.905, beginning with:

(i) for a multifamily residential development that is acquired by the corporation, the first tax year after the tax year that the corporation acquires the development; and

(ii) for a newly constructed multifamily residential development not described by Subparagraph (i), the first tax year after the tax year in which construction first begins on the development; or

(B) less than 50 percent of the amount of the estimated ad valorem taxes described by Paragraph (A) beginning with the tax year specified by that paragraph, but the housing finance corporation user paid to each taxing unit authorized to impose ad valorem taxes on the applicable property for the applicable tax year an amount equal to that taxing unit's pro rata share of the rent reduction shortfall that exists based on the difference between the minimum rent reduction amount described by Paragraph (A) and the amount of actual rent reduction at the development in the preceding tax year;

(3) the income-restricted residential units in the development have the same unit finishes and equipment and access to community amenities and programs as residential units that are not income-restricted;

(4) the percentage of very low, lower, moderate, and middle income housing units reserved in each category of income-restricted residential units in the development, based on the number of bedrooms per unit, is the same as the percentage of each category of income-restricted residential units reserved in the development as a whole;

(5) the monthly rent charged per unit does not exceed:

(A) for a very low income housing unit, 30 percent of 50 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development;

(B) for a lower income housing unit, 30 percent of 60 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development;

(C) for a moderate income housing unit, 30 percent of 80 percent of the area median income, adjusted for family size, as

defined by the United States Department of Housing and Urban Development; or

(D) for a middle income housing unit, 30 percent of 100 percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development;

(6) the housing finance corporation user and the development do not:

(A) refuse to rent a residential unit in the development to an individual or family because the individual or family participates in the housing choice voucher program; or

(B) use a financial or minimum income standard that requires an individual or family participating in the housing choice voucher program to have a monthly income of more than 250 percent of the individual's or family's share of the total monthly rent payable for a unit;

(7) the housing finance corporation user causes to be published on the Internet website of the development information about the development's policies regarding tenant participation in the housing choice voucher program;

(8) the housing finance corporation user for the development:

(A) affirmatively markets available residential units directly to individuals and families participating in the housing choice voucher program; and

(B) notifies local housing authorities of the development's acceptance of tenants in the housing choice voucher program; and

(9) each lease agreement for an income-restricted residential unit in the development provides that:

(A) the landlord may not retaliate against the tenant or the tenant's guests by taking an action because the tenant established, attempted to establish, or participated in a tenant organization;

(B) the landlord may only choose to not renew the lease if the tenant:

(i) committed one or more substantial violations of the lease;

(ii) failed to provide required information on the income, composition, or eligibility of the tenant's household; or

(iii) committed repeated minor violations of the lease that disrupt the livability of the property, adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related development facilities, interfere with the management of the development, or have an adverse financial effect on the development, including the failure of the tenant to pay rent in a timely manner; and

(C) to not renew the lease, the landlord must serve a written notice of proposed nonrenewal on the tenant not later than the 30th day before the effective date of nonrenewal.

(d) In calculating the income of an individual or family for a very low, lower, moderate, or middle income housing unit, the housing finance corporation user must use the definition of annual income described in 24 C.F.R. Section 5.609, as implemented by the United States Department of Housing and Urban Development. If the income of a tenant exceeds an applicable limit at the time of the renewal of a lease agreement for a residential unit, the provisions of Section 42(g)(2)(D), Internal Revenue Code of 1986, apply in determining whether the unit may still qualify as a very low, lower, moderate, or middle income housing unit.

(e) A housing finance corporation user may require an individual or family participating in the housing choice voucher program to pay the difference between the monthly rent for the applicable unit and the amount of the monthly voucher if the amount of the voucher is less than the rent.

(f) A tenant may not waive the protections provided by Subsection (c)(9). A housing finance corporation user may adopt tenant protections that are more protective of tenants than the tenant protections provided by Subsection (c)(9).

(g) A multifamily residential development that is acquired by a housing finance corporation and is occupied on the date of the acquisition is eligible for an ad valorem exemption under Section 394.905 for the two tax years following the date of the acquisition, regardless of whether the development complies with the conditions prescribed by Subsections (c)(1), (3), (4), and (5), if the development comes into compliance with Subsections (c)(1), (3), (4), and (5) not later than the end of the second tax year after the date of the acquisition.

Added by Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 9, eff.

May 28, 2025.

Sec. 394.9027. AUDIT REQUIREMENTS FOR CERTAIN MULTIFAMILY RESIDENTIAL DEVELOPMENTS. (a) In this section:

(1) "Department" means the Texas Department of Housing and Community Affairs.

(2) "Housing finance corporation user" has the meaning assigned by Section 394.9026.

(b) A housing finance corporation or housing finance corporation user that claims an ad valorem tax exemption for a multifamily residential development under Section 394.905 must annually submit to the department an audit report for a compliance audit, prepared at the expense of the housing finance corporation user and conducted by an independent auditor or compliance expert with an established history of providing similar audits on housing compliance matters, that:

(1) states whether the corporation is in compliance with the requirements imposed for the exemption by Section 394.9026; and

(2) identifies the difference in the rent charged for income-restricted residential units and the estimated maximum market rents that could be charged for those units without the income restrictions.

(c) Not later than the 60th day after the date of receipt of the audit conducted under Subsection (b), the department shall examine the audit report and publish a report summarizing the findings of the audit. The report must:

(1) be made available on the department's Internet website;

(2) be issued to the housing finance corporation that owns or is associated with the development that is the subject of an audit, the housing finance corporation user of the development, the comptroller, and the governing body of the sponsoring local government or governments of the housing finance corporation; and

(3) describe in detail the nature of any failure to comply with the requirements of Section 394.9026.

(d) If an audit report submitted under Subsection (b) indicates noncompliance with Section 394.9026, a housing finance corporation user, the associated housing finance corporation, and the chief appraiser of the appraisal district in which the development is located must be given written notice from the department that is

provided not later than the 120th day after the date a report has been submitted under Subsection (b) and specifies the reasons for noncompliance. For a finding of noncompliance with any provision of Section 394.9026(c), a housing finance corporation user and the associated housing finance corporation must be given:

(1) additional written notice that:

(A) otherwise complies with the notice requirements of this section;

(B) contains at least one option for a corrective action to resolve the noncompliance; and

(C) informs the housing finance corporation user and associated housing finance corporation that failure to resolve the noncompliance within the period provided by Subdivision (2) will result in the loss of the ad valorem tax exemption under Section 394.905;

(2) a period of 180 days after the date notice is received under Subdivision (1) to resolve the matter that is the subject of the notice; and

(3) if a matter that is the subject of a notice provided under this subdivision is not resolved to the satisfaction of the department during the period provided by Subdivision (2), a second notice that informs the housing finance corporation of the loss of the ad valorem tax exemption for the development due to noncompliance with Section 394.9026.

(e) The initial audit report required by Subsection (b) is due not later than June 1 of the tax year following:

(1) the date of acquisition for an existing multifamily residential development that is acquired by a housing finance corporation; or

(2) the date a newly constructed multifamily residential development first becomes occupied by one or more tenants.

(f) Subsequent audit reports following the issuance of the initial audit report under Subsection (e) are due not later than June 1 of each year.

(g) The department may extend the deadline for submitting any audit required under this section for good cause shown, as determined by the department.

(h) An independent auditor or compliance expert may not prepare an audit under Subsection (b) for more than three consecutive tax years for the same housing finance corporation. After the third

consecutive audit, the independent auditor or compliance expert may prepare an audit only after the second anniversary of the preparation of the third consecutive audit.

(i) The department:

(1) shall adopt forms and reporting standards for the auditing process;

(2) may charge a fee for the submission of an audit report under this section in a reasonable amount necessary to cover the expenses of administering this section; and

(3) shall adopt rules necessary to implement this section and Section 394.9026.

(j) Rules adopted under Subsection (i)(3) must include administrative processes and a process by which a housing finance corporation user may appeal a finding of noncompliance made under this section or a loss of a tax exemption due to a finding of noncompliance with Section 394.9026 or any other provision of this chapter.

(k) An audit conducted under Subsection (b) is subject to disclosure under Chapter 552, Government Code, except that information containing tenant names, unit numbers, or other tenant identifying information may be redacted.

(l) This section does not apply to a multifamily residential development during any period that the development is the recipient of a low income housing tax credit allocated under Subchapter DD, Chapter 2306, Government Code.

Added by Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 9, eff. May 28, 2025.

Sec. 394.903. TRANSFER OF RESIDENTIAL DEVELOPMENT SITES. Subject to Sections 394.031(c) and (d), a local government may transfer any residential development site to a housing finance corporation by sale or lease. The governing body of the local government may authorize the transfer by resolution without submitting the issue to the voters and without regard to the requirements, restrictions, limitations, or other provisions contained in any other general, special, or local law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 10, eff. May 28, 2025.

Sec. 394.904. EXEMPTION FROM REQUIREMENTS AND RESTRICTIONS APPLYING TO PUBLIC PROPERTY. (a) The acquisition, construction, or rehabilitation of a private residential development or a home is not subject to requirements relating to public buildings, structures, grounds, works, or improvements imposed by the laws of this state, or to any other similar requirements.

(b) Any competitive bidding requirement or restriction imposed on the procedure regarding the award of contracts for that acquisition, construction, or rehabilitation or regarding the lease, sale, or other disposition of property of the local government is not applicable to any action taken under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.905. EXEMPTION FROM TAXES AND FEES. (a) Subject to compliance with the requirements of this chapter, a housing finance corporation and all property owned by the corporation, the income from that property, all bonds issued by the corporation, the income from those bonds, and the transfer of those bonds are exempt, as public property used for public purposes, from license fees, recording fees, and all other taxes imposed by this state or any political subdivision of this state.

(b) A multifamily residential development owned by a housing finance corporation is eligible for an exemption from ad valorem taxes, and the materials used to improve the applicable property are eligible for an exemption from sales and use taxes, only if:

(1) the property is located in an area in which the housing finance corporation is authorized to own real property or engage in residential development under Section 394.031(c) or (d);

(2) the board of directors of the corporation has adopted a resolution approving the multifamily residential development;

(3) before approval of the board of directors under Subdivision (2), the housing finance corporation or a sponsoring local government of the corporation:

(A) conducts, or obtains from a professional entity

that has experience underwriting affordable residential developments and does not have a financial interest in the corporation or the applicable development, developer, or investors, an underwriting assessment of the proposed development that is dated not earlier than 180 days before the date of the board resolution;

(B) based on the underwriting assessment, makes a good faith determination that the total amount of annual rent reduction applicable to the development, as defined by Section 394.9026(a), will be not less than 50 percent of the amount of estimated ad valorem taxes that would be imposed on the property in the same tax year if the applicable property did not receive an exemption from those taxes under this section:

(i) for a development that is acquired by the corporation, each of the third, fourth, and fifth tax years after the tax year that the corporation acquires the development; and

(ii) for a newly constructed development not described by Subparagraph (i), each of the first, second, and third tax years after the tax year in which the development first achieves an occupancy rate of 90 percent; and

(C) publishes on its Internet website a copy of the underwriting assessment required by this subsection; and

(4) the housing finance corporation submits to the Texas Department of Housing and Community Affairs and to the chief appraiser for each appraisal district in which the exemption is sought a one-time exemption application on a form promulgated by the comptroller.

(c) Notwithstanding Subsections (a) and (b), and subject to Section 394.9027, a multifamily residential development owned by a housing finance corporation or a housing finance corporation user is not entitled to an ad valorem tax exemption for any given tax year in which:

(1) the corporation or the housing finance corporation user is not in compliance with any provisions of Section 394.9026(c) and:

(A) the notice requirements in Section 394.9027(d) have been fulfilled; and

(B) the noncompliance is not resolved to the satisfaction of the department within the period provided by Section 394.9027(d)(2); or

(2) the corporation or the housing finance corporation user has not timely submitted the audit report required by Section

394.9027.

(d) Subsection (a) does not apply to ad valorem taxes imposed on a multifamily residential development by:

(1) a conservation or reclamation district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, that provides water, sewer, or drainage service to the development, unless the applicable corporation has entered into a written agreement with the district to make a payment to the district in lieu of taxation, in the amount specified in the agreement; or

(2) an emergency services district created under Chapter 775, Health and Safety Code, unless the applicable corporation has entered into a written agreement with the district to make a payment to the district in lieu of taxation, in the amount specified in the agreement.

(e) Subsections (b)(3), (b)(4), and (c) do not apply to a multifamily residential development that is:

(1) owned by a housing finance corporation; and

(2) the recipient of a low income housing tax credit allocated under Subchapter DD, Chapter 2306, Government Code.

(f) The corporation is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if the corporation is exempted by that chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 208 (H.B. 21), Sec. 11, eff. May 28, 2025.

Sec. 394.906. CONDITIONS UNDER WHICH FEDERAL GUARANTEE OR HOME MORTGAGE INSURANCE NOT REQUIRED. A home mortgage does not require a federal guarantee or home mortgage insurance if the principal of and interest on the housing finance corporation's bonds issued to make or purchase the home mortgage or to make loans to lending institutions are guaranteed or insured by an agency, department, or instrumentality of the United States or by an insurance or surety company authorized to issue municipal bond insurance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 394.907. CORPORATION POWERS NOT RESTRICTED; POLICE POWERS NOT AFFECTED. (a) This chapter does not restrict or otherwise limit any powers that the housing finance corporation may otherwise exercise under the laws of this state.

(b) Except as provided by this chapter, no proceeding, notice, or approval is required for the organization of the housing finance corporation, the issuance of bonds, or the issuance of any instrument as security for the bonds.

(c) This chapter does not deprive this state or a governmental subdivision of this state of their respective police powers over property of the housing finance corporation and does not impair any power over the property that is otherwise provided by law to any official or agency of the state or its governmental subdivisions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 395. FINANCING CAPITAL IMPROVEMENTS REQUIRED BY NEW DEVELOPMENT IN MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 395.001. DEFINITIONS. In this chapter:

(1) "Capital improvement" means any of the following facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of a political subdivision:

(A) water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and storm water, drainage, and flood control facilities; whether or not they are located within the service area; and

(B) roadway facilities.

(2) "Capital improvements plan" means a plan required by this chapter that identifies capital improvements or facility expansions for which impact fees may be assessed.

(3) "Facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

(4) "Impact fee" means a charge or assessment imposed by a

political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

(A) dedication of land for public parks or payment in lieu of the dedication to serve park needs;

(B) dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;

(C) lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or

(D) other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2), and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

(5) "Land use assumptions" includes a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period.

(6) "New development" means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units.

(7) "Political subdivision" means a municipality, a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or, for the purposes set forth by Section 395.079, certain counties described by that section.

(8) "Roadway facilities" means arterial or collector streets or roads that have been designated on an officially adopted

roadway plan of the political subdivision, together with all necessary appurtenances. The term includes the political subdivision's share of costs for roadways and associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

(9) "Service area" means the area within the corporate boundaries or extraterritorial jurisdiction, as determined under Chapter 42, of the political subdivision to be served by the capital improvements or facilities expansions specified in the capital improvements plan, except roadway facilities and storm water, drainage, and flood control facilities. The service area, for the purposes of this chapter, may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, except for roadway facilities and storm water, drainage, and flood control facilities. For roadway facilities, the service area is limited to an area within the corporate boundaries of the political subdivision and shall not exceed six miles. For storm water, drainage, and flood control facilities, the service area may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, but shall not exceed the area actually served by the storm water, drainage, and flood control facilities designated in the capital improvements plan and shall not extend across watershed boundaries.

(10) "Service unit" means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 566, Sec. 1(e), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 345, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER B. AUTHORIZATION OF IMPACT FEE

Sec. 395.011. AUTHORIZATION OF FEE. (a) Unless otherwise

specifically authorized by state law or this chapter, a governmental entity or political subdivision may not enact or impose an impact fee.

(b) Except as provided by Section 218.204 and Subsection (b-1), political subdivisions may enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions only by complying with this chapter.

(b-1) A political subdivision may not enact or impose an impact fee on land within its extraterritorial jurisdiction for roadway facilities.

(c) A municipality may contract to provide capital improvements, except roadway facilities, to an area outside its corporate boundaries and extraterritorial jurisdiction and may charge an impact fee under the contract, but if an impact fee is charged in that area, the municipality must comply with this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 778 (S.B. 840), Sec. 3, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 1026 (S.B. 2477), Sec. 2, eff. September 1, 2025.

Sec. 395.012. ITEMS PAYABLE BY FEE. (a) An impact fee may be imposed only to pay the costs of constructing capital improvements or facility expansions, including and limited to the:

(1) construction contract price;

(2) surveying and engineering fees;

(3) land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees; and

(4) fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the political subdivision.

(b) Projected interest charges and other finance costs may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements or facility

expansions identified in the capital improvements plan and are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan.

(c) Notwithstanding any other provision of this chapter, the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay a staff engineer who prepares or updates a capital improvements plan under this chapter.

(d) A municipality may pledge an impact fee as security for the payment of debt service on a bond, note, or other obligation issued to finance a capital improvement or public facility expansion if:

(1) the improvement or expansion is identified in a capital improvements plan; and

(2) at the time of the pledge, the governing body of the municipality certifies in a written order, ordinance, or resolution that none of the impact fee will be used or expended for an improvement or expansion not identified in the plan.

(e) A certification under Subsection (d)(2) is sufficient evidence that an impact fee pledged will not be used or expended for an improvement or expansion that is not identified in the capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 90, Sec. 1, eff. May 16, 1995.

Sec. 395.013. ITEMS NOT PAYABLE BY FEE. Impact fees may not be adopted or used to pay for:

(1) construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;

(2) repair, operation, or maintenance of existing or new capital improvements or facility expansions;

(3) upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;

(4) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

(5) administrative and operating costs of the political

subdivision, except the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay its administrative and operating costs;

(6) principal payments and interest or other finance charges on bonds or other indebtedness, except as allowed by Section 395.012.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.014. CAPITAL IMPROVEMENTS PLAN. (a) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) a plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvements plan.

(b) The analysis required by Subsection (a)(3) may be prepared on a systemwide basis within the service area for each major category of capital improvement or facility expansion for the designated service area.

(c) The governing body of the political subdivision is responsible for supervising the implementation of the capital improvements plan in a timely manner.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.015. MAXIMUM FEE PER SERVICE UNIT. (a) The impact fee per service unit may not exceed the amount determined by subtracting the amount in Section 395.014(a)(7) from the costs of the capital improvements described by Section 395.014(a)(3) and dividing that amount by the total number of projected service units described by Section 395.014(a)(5).

(b) If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee per service unit shall be calculated by dividing the costs of the part of the

capital improvements necessitated by and attributable to projected new service units described by Section 395.014(a)(6) by the projected new service units described in that section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 3, eff. Sept. 1, 2001.

Sec. 395.016. TIME FOR ASSESSMENT AND COLLECTION OF FEE. (a) This subsection applies only to impact fees adopted and land platted before June 20, 1987. For land that has been platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before June 20, 1987, or land on which new development occurs or is proposed without platting, the political subdivision may assess the impact fees at any time during the development approval and building process. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(b) This subsection applies only to impact fees adopted before June 20, 1987, and land platted after that date. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after June 20, 1987, the political subdivision may assess the impact fees before or at the time of recordation. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(c) This subsection applies only to impact fees adopted after June 20, 1987. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before the adoption of an impact fee, an impact fee may not be collected on any service unit for which a valid building permit is issued within one year after the date of adoption of the impact fee.

(d) This subsection applies only to land platted in accordance

with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after adoption of an impact fee adopted after June 20, 1987. The political subdivision shall assess the impact fees before or at the time of recordation of a subdivision plat or other plat under Subchapter A, Chapter 212, or the subdivision or platting ordinance or procedures of any political subdivision in the official records of the county clerk of the county in which the tract is located. Except as provided by Section 395.019, if the political subdivision has water and wastewater capacity available:

(1) the political subdivision shall collect the fees at the time the political subdivision issues a building permit;

(2) for land platted outside the corporate boundaries of a municipality, the municipality shall collect the fees at the time an application for an individual meter connection to the municipality's water or wastewater system is filed; or

(3) a political subdivision that lacks authority to issue building permits in the area where the impact fee applies shall collect the fees at the time an application is filed for an individual meter connection to the political subdivision's water or wastewater system.

(e) For land on which new development occurs or is proposed to occur without platting, the political subdivision may assess the impact fees at any time during the development and building process and may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(f) An "assessment" means a determination of the amount of the impact fee in effect on the date or occurrence provided in this section and is the maximum amount that can be charged per service unit of such development. No specific act by the political subdivision is required.

(g) Notwithstanding Subsections (a)-(e) and Section 395.017, the political subdivision may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. Section 12745, as amended, once the service unit is constructed. If affordable housing as defined by 42 U.S.C. Section 12745, as amended, is not constructed, the political subdivision may reverse its decision to waive or reduce the impact fee, and the political

subdivision may assess an impact fee at any time during the development approval or building process or after the building process if an impact fee was not already assessed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 52, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 345, Sec. 4, eff. Sept. 1, 2001.

Sec. 395.017. ADDITIONAL FEE PROHIBITED; EXCEPTION. After assessment of the impact fees attributable to the new development or execution of an agreement for payment of impact fees, additional impact fees or increases in fees may not be assessed against the tract for any reason unless the number of service units to be developed on the tract increases. In the event of the increase in the number of service units, the impact fees to be imposed are limited to the amount attributable to the additional service units.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.018. AGREEMENT WITH OWNER REGARDING PAYMENT. A political subdivision is authorized to enter into an agreement with the owner of a tract of land for which the plat has been recorded providing for the time and method of payment of the impact fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.019. COLLECTION OF FEES IF SERVICES NOT AVAILABLE. Except for roadway facilities, impact fees may be assessed but may not be collected in areas where services are not currently available unless:

(1) the collection is made to pay for a capital improvement or facility expansion that has been identified in the capital improvements plan and the political subdivision commits to commence construction within two years, under duly awarded and executed contracts or commitments of staff time covering substantially all of the work required to provide service, and to have the service available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in

no event longer than five years;

(2) the political subdivision agrees that the owner of a new development may construct or finance the capital improvements or facility expansions and agrees that the costs incurred or funds advanced will be credited against the impact fees otherwise due from the new development or agrees to reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to the owner at the time the other new development records its plat; or

(3) an owner voluntarily requests the political subdivision to reserve capacity to serve future development, and the political subdivision and owner enter into a valid written agreement.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.020. ENTITLEMENT TO SERVICES. Any new development for which an impact fee has been paid is entitled to the permanent use and benefit of the services for which the fee was exacted and is entitled to receive immediate service from any existing facilities with actual capacity to serve the new service units, subject to compliance with other valid regulations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.021. AUTHORITY OF POLITICAL SUBDIVISIONS TO SPEND FUNDS TO REDUCE FEES. Political subdivisions may spend funds from any lawful source to pay for all or a part of the capital improvements or facility expansions to reduce the amount of impact fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.022. AUTHORITY OF POLITICAL SUBDIVISION TO PAY FEES. (a) Political subdivisions and other governmental entities may pay impact fees imposed under this chapter.

(b) A school district is not required to pay impact fees imposed under this chapter unless the board of trustees of the

district consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board of trustees considers advisable to provide for the payment of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 250 (S.B. 883), Sec. 1, eff. May 25, 2007.

Sec. 395.023. CREDITS AGAINST ROADWAY FACILITIES FEES. Any construction of, contributions to, or dedications of off-site roadway facilities agreed to or required by a political subdivision as a condition of development approval shall be credited against roadway facilities impact fees otherwise due from the development.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0231. CONSERVATION AND REUSE CREDITS AGAINST WATER AND WASTEWATER FEES. (a) A political subdivision shall provide a credit against water and wastewater impact fees otherwise assessed to a development to a builder or developer for the construction, contribution, or dedication of an eligible facility, system, or product that results in water reuse, conservation, or savings.

(b) A facility, system, or product eligible for a credit under this section includes a facility, system, or product that:

(1) reduces per service unit water consumption, supply requirements, or necessary treatment and distribution infrastructure per service unit;

(2) decreases the need of wastewater collection and treatment facilities per service unit;

(3) diminishes the demand for stormwater and drainage facilities per service unit; or

(4) integrates practices or technologies that achieve water efficiency, reuse, or conservation performance that exceeds standard compliance requirements.

(c) A political subdivision that provides a credit under this section shall establish procedures for:

(1) calculating and applying the credits in a fair and

consistent manner; and

(2) reviewing and approving credits under this section.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 15 (S.B. 14), Sec. 1, eff. January 1, 2026.

Sec. 395.024. ACCOUNTING FOR FEES AND INTEREST. (a) The order, ordinance, or resolution levying an impact fee must provide that all funds collected through the adoption of an impact fee shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the fee was adopted.

(b) Interest earned on impact fees is considered funds of the account on which it is earned and is subject to all restrictions placed on use of impact fees under this chapter.

(c) Impact fee funds may be spent only for the purposes for which the impact fee was imposed as shown by the capital improvements plan and as authorized by this chapter.

(d) The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.025. REFUNDS. (a) On the request of an owner of the property on which an impact fee has been paid, the political subdivision shall refund the impact fee if existing facilities are available and service is denied or the political subdivision has, after collecting the fee when service was not available, failed to commence construction within two years or service is not available within a reasonable period considering the type of capital improvement or facility expansion to be constructed, but in no event later than five years from the date of payment under Section 395.019(1).

(b) Repealed by Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

(c) The political subdivision shall refund any impact fee or part of it that is not spent as authorized by this chapter within 10 years after the date of payment.

(d) Any refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002, Finance Code, or its successor statute.

(e) All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by another political subdivision or governmental entity, payment shall be made to the political subdivision or governmental entity.

(f) The owner of the property on which an impact fee has been paid or another political subdivision or governmental entity that paid the impact fee has standing to sue for a refund under this section.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1396, Sec. 37, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.82, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 345, Sec. 9, eff. Sept. 1, 2001.

SUBCHAPTER C. PROCEDURES FOR ADOPTION OF IMPACT FEE

Sec. 395.041. COMPLIANCE WITH PROCEDURES REQUIRED. Except as otherwise provided by this chapter, a political subdivision must comply with this subchapter to levy an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0411. CAPITAL IMPROVEMENTS PLAN. The political subdivision shall provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section 395.014.

Added by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.042. HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. To impose an impact fee, a political subdivision must adopt an order, ordinance, or resolution establishing a public hearing date to consider the land use assumptions and capital improvements plan for the designated service area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.043. INFORMATION ABOUT LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. At least 60 days before the date of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall make available to the public its land use assumptions, the time period of the projections, and a description of the capital improvement facilities that may be proposed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 506 (S.B. 1883), Sec. 1, eff. September 1, 2025.

Sec. 395.044. NOTICE OF HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. (a) Before the 30th day before the date of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order, ordinance, or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN RELATING TO POSSIBLE ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the land use assumptions and capital improvements plan under which an impact fee may be imposed; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the land use assumptions and capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.045. APPROVAL OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED. (a) After the public hearing on the land use assumptions and capital improvements plan, the political subdivision shall determine whether to adopt or reject an ordinance, order, or resolution approving the land use assumptions and capital improvements plan.

(b) The political subdivision, within 30 days after the date of the public hearing, shall approve or disapprove the land use assumptions and capital improvements plan.

(c) An ordinance, order, or resolution approving the land use assumptions and capital improvements plan may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.0455. SYSTEMWIDE LAND USE ASSUMPTIONS. (a) In lieu of adopting land use assumptions for each service area, a political subdivision may, except for storm water, drainage, flood control, and roadway facilities, adopt systemwide land use assumptions, which cover all of the area subject to the jurisdiction of the political subdivision for the purpose of imposing impact fees under this chapter.

(b) Prior to adopting systemwide land use assumptions, a political subdivision shall follow the public notice, hearing, and other requirements for adopting land use assumptions.

(c) After adoption of systemwide land use assumptions, a political subdivision is not required to adopt additional land use assumptions for a service area for water supply, treatment, and

distribution facilities or wastewater collection and treatment facilities as a prerequisite to the adoption of a capital improvements plan or impact fee, provided the capital improvements plan and impact fee are consistent with the systemwide land use assumptions.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(b), eff. Aug. 28, 1989.

Sec. 395.047. HEARING ON IMPACT FEE. On adoption of the land use assumptions and capital improvements plan, the governing body shall adopt an order or resolution setting a public hearing to discuss the imposition of the impact fee. The public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution imposing an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.049. NOTICE OF HEARING ON IMPACT FEE. (a) Before the 30th day before the date of the hearing on the imposition of an impact fee, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to

consider the adoption of an impact fee;

(4) the amount of the proposed impact fee per service unit; and

(5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.050. ADVISORY COMMITTEE COMMENTS ON IMPACT FEES. The advisory committee created under Section 395.058 shall file its written comments on the proposed impact fees before the fifth business day before the date of the public hearing on the imposition of the fees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001.

Sec. 395.051. APPROVAL OF IMPACT FEE REQUIRED. (a) The political subdivision, within 30 days after the date of the public hearing on the imposition of an impact fee, shall approve or disapprove the imposition of an impact fee. Approval of the imposition of an impact fee by a political subdivision requires an affirmative vote of two-thirds of the members of the governing body of the political subdivision.

(b) An ordinance, order, or resolution approving the imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 5, eff. Sept. 1, 2001. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 506 (S.B. 1883), Sec. 2, eff. September 1, 2025.

Sec. 395.0515. LIMITATION ON IMPACT FEE INCREASE. A political subdivision may not increase the amount of an impact fee for three years from the later of the date the fee was adopted or most recently

increased, if applicable. Nothing in this section prohibits the political subdivision from implementing an impact fee collection schedule that allows less than the maximum adopted impact fee to be collected or phased in up to the maximum adopted impact fee for a period not to exceed ten years, as authorized by this chapter.

Added by Acts 2025, 89th Leg., R.S., Ch. 506 (S.B. 1883), Sec. 3, eff. September 1, 2025.

Sec. 395.052. PERIODIC UPDATE OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED. (a) A political subdivision imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five years. The initial five-year period begins on the day the capital improvements plan is adopted.

(b) The political subdivision shall review and evaluate its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with Subchapter B.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 6, eff. Sept. 1, 2001.

Sec. 395.053. HEARING ON UPDATED LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. The governing body of the political subdivision shall, within 120 days after the date it receives the update of the land use assumptions and the capital improvements plan, adopt an order setting a public hearing to discuss and review the update and shall determine whether to amend the plan.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 506 (S.B. 1883), Sec. 4, eff. September 1, 2025.

Sec. 395.054. HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE. A public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution amending land use

assumptions, the capital improvements plan, or the impact fee. At least 60 days before the date of the first publication of the notice of the hearing on the amendments, the land use assumptions and the capital improvements plan, including the amount of any proposed amended impact fee per service unit, shall be made available to the public.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 506 (S.B. 1883), Sec. 5, eff. September 1, 2025.

Sec. 395.055. NOTICE OF HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE. (a) The notice and hearing procedures prescribed by Sections 395.044(a) and (b) apply to a hearing on the amendment of land use assumptions, a capital improvements plan, or an impact fee.

(b) The notice of a hearing under this section must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON AMENDMENT OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the amendment of land use assumptions and a capital improvements plan and the imposition of an impact fee; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the update.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 345, Sec. 7, eff. Sept. 1, 2001.

Sec. 395.056. ADVISORY COMMITTEE COMMENTS ON AMENDMENTS. The advisory committee created under Section 395.058 shall file its written comments on the proposed amendments to the land use assumptions, capital improvements plan, and impact fee before the fifth business day before the date of the public hearing on the amendments.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.057. APPROVAL OF AMENDMENTS REQUIRED. (a) The political subdivision, within 30 days after the date of the public hearing on the amendments, shall approve or disapprove the amendments of the land use assumptions and the capital improvements plan and modification of an impact fee.

(b) An ordinance, order, or resolution approving the amendments to the land use assumptions, the capital improvements plan, and imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.0575. DETERMINATION THAT NO UPDATE OF LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN OR IMPACT FEES IS NEEDED. (a) If, at the time an update under Section 395.052 is required, the governing body determines that no change to the land use assumptions, capital improvements plan, or impact fee is needed, it may, as an alternative to the updating requirements of Sections 395.052-395.057, do the following:

(1) The governing body of the political subdivision shall, upon determining that an update is unnecessary and 60 days before publishing the final notice under this section, send notice of its determination not to update the land use assumptions, capital improvements plan, and impact fee by certified mail to any person who has, within two years preceding the date that the final notice of this matter is to be published, give written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of hearings related to impact fees. The notice must contain the information in Subsections (b)(2)-(5).

(2) The political subdivision shall publish notice of its determination once a week for three consecutive weeks in one or more newspapers with general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each

county in which the service area lies. The notice of public hearing may not be in the part of the paper in which legal notices and classified ads appear and may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.

(b) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF DETERMINATION NOT TO UPDATE
LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS
PLAN, OR IMPACT FEES";

(2) a statement that the governing body of the political subdivision has determined that no change to the land use assumptions, capital improvements plan, or impact fee is necessary;

(3) an easily understandable description and a map of the service area in which the updating has been determined to be unnecessary;

(4) a statement that if, within a specified date, which date shall be at least 60 days after publication of the first notice, a person makes a written request to the designated official of the political subdivision requesting that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body must comply with the request by following the requirements of Sections 395.052-395.057; and

(5) a statement identifying the name and mailing address of the official of the political subdivision to whom a request for an update should be sent.

(c) The advisory committee shall file its written comments on the need for updating the land use assumptions, capital improvements plans, and impact fee before the fifth business day before the earliest notice of the government's decision that no update is necessary is mailed or published.

(d) If, by the date specified in Subsection (b)(4), a person requests in writing that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body shall cause an update of the land use assumptions and capital improvements plan to be prepared in accordance with Sections 395.052-395.057.

(e) An ordinance, order, or resolution determining the need for updating land use assumptions, a capital improvements plan, or an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 566, Sec. 1(d), eff. Aug. 28, 1989.

Sec. 395.058. ADVISORY COMMITTEE. (a) On or before the date on which the order, ordinance, or resolution is adopted under Section 395.042, the political subdivision shall appoint a capital improvements advisory committee.

(b) The advisory committee is composed of not less than five members who shall be appointed by a majority vote of the governing body of the political subdivision. Not less than 50 percent of the membership of the advisory committee must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity. If the impact fee is to be applied in the extraterritorial jurisdiction of the political subdivision, the membership must include a representative from that area.

(c) The advisory committee serves in an advisory capacity and is established to:

(1) advise and assist the political subdivision in adopting land use assumptions;

(2) review the capital improvements plan and file written comments;

(3) monitor and evaluate implementation of the capital improvements plan;

(4) file semiannual reports with respect to the progress of the capital improvements plan and report to the political subdivision any perceived inequities in implementing the plan or imposing the impact fee; and

(5) advise the political subdivision of the need to update or revise the land use assumptions, capital improvements plan, and impact fee.

(d) The political subdivision shall make available to the advisory committee any professional reports with respect to developing and implementing the capital improvements plan.

(e) The governing body of the political subdivision shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 506 (S.B. 1883), Sec. 6, eff. September 1, 2025.

Sec. 395.059. INDEPENDENT FINANCIAL AUDIT. (a) Before a political subdivision may increase an existing impact fee or adopt a new impact fee for a service area where an impact fee had previously been adopted, the political subdivision must conduct an independent financial audit in accordance with this section.

(b) An independent financial audit conducted under this section must be performed by an independent auditor who:

(1) is a certified public accountant or public accountant licensed by the Texas State Board of Public Accountancy; and

(2) is not, and has not been during the 12 months preceding the commencement of the audit, under contract to provide any other service to the political subdivision or a related entity of the political subdivision.

(c) An independent financial audit conducted under this section must provide, if applicable, a detailed accounting of:

(1) the amount of funds collected from any impact fee imposed by the political subdivision in the service area;

(2) the amount of interest accumulated under Section 395.025 on impact fees collected by the political subdivision in the service area;

(3) any proposed capital improvements or facility expansions to be financed from an impact fee collected by the political subdivision in the service area that were not constructed, as described by Section 395.025, including the categories of each improvement and expansion;

(4) the amount of funds collected from impact fees by the political subdivision in the service area that have not been spent;

(5) each impact fee collected by the political subdivision in the service area;

(6) the allocation of each impact fee made to the political subdivision in the service area;

(7) any waived impact fees in the service area under Section 395.016(g);

(8) any requested refunds of impact fees in the service area under Section 395.025;

(9) any impact fees in the service area refunded under Section 395.025; and

(10) any errors or omissions of credits in impact fee calculations for impact fees in the service area.

(d) An independent financial audit conducted under this section must be submitted to the political subdivision and advisory committee described by Section 395.058. Before the political subdivision may increase an existing impact fee or adopt a new impact fee for a service area where an impact fee had previously been adopted, the political subdivision must hold a public hearing on the results of the audit received under this subsection.

(e) A political subdivision shall make available to the public on the political subdivision's Internet website an applicable independent financial audit at least 30 days before:

(1) the publication of notice required under Section 395.044; and

(2) the adoption of an order as required under Section 395.053.

(f) A political subdivision may use money collected from an impact fee to conduct an audit required under this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 506 (S.B. 1883), Sec. 7, eff. September 1, 2025.

SUBCHAPTER D. OTHER PROVISIONS

Sec. 395.071. DUTIES TO BE PERFORMED WITHIN TIME LIMITS. If the governing body of the political subdivision does not perform a duty imposed under this chapter within the prescribed period, a person who has paid an impact fee or an owner of land on which an impact fee has been paid has the right to present a written request to the governing body of the political subdivision stating the nature of the unperformed duty and requesting that it be performed within 60 days after the date of the request. If the governing body of the political subdivision finds that the duty is required under this chapter and is late in being performed, it shall cause the duty to commence within 60 days after the date of the request and continue until completion.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.072. RECORDS OF HEARINGS. A record must be made of any public hearing provided for by this chapter. The record shall be maintained and be made available for public inspection by the political subdivision for at least 10 years after the date of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.073. CUMULATIVE EFFECT OF STATE AND LOCAL RESTRICTIONS. Any state or local restrictions that apply to the imposition of an impact fee in a political subdivision where an impact fee is proposed are cumulative with the restrictions in this chapter.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.074. PRIOR IMPACT FEES REPLACED BY FEES UNDER THIS CHAPTER. An impact fee that is in place on June 20, 1987, must be replaced by an impact fee made under this chapter on or before June 20, 1990. However, any political subdivision having an impact fee that has not been replaced under this chapter on or before June 20, 1988, is liable to any party who, after June 20, 1988, pays an impact fee that exceeds the maximum permitted under Subchapter B by more than 10 percent for an amount equal to two times the difference between the maximum impact fee allowed and the actual impact fee imposed, plus reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.075. NO EFFECT ON TAXES OR OTHER CHARGES. This chapter does not prohibit, affect, or regulate any tax, fee, charge, or assessment specifically authorized by state law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989.

Sec. 395.076. MORATORIUM ON DEVELOPMENT PROHIBITED. A moratorium may not be placed on new development for the purpose of

awaiting the completion of all or any part of the process necessary to develop, adopt, or update land use assumptions, a capital improvements plan, or an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 441, Sec. 2, eff. Sept. 1, 2001.

Sec. 395.077. APPEALS. (a) A person who has exhausted all administrative remedies within the political subdivision and who is aggrieved by a final decision is entitled to trial de novo under this chapter.

(b) A suit to contest an impact fee must be filed within 90 days after the date of adoption of the ordinance, order, or resolution establishing the impact fee.

(c) Except for roadway facilities, a person who has paid an impact fee or an owner of property on which an impact fee has been paid is entitled to specific performance of the services by the political subdivision for which the fee was paid.

(d) This section does not require construction of a specific facility to provide the services.

(e) Any suit must be filed in the county in which the major part of the land area of the political subdivision is located. A successful litigant shall be entitled to recover reasonable attorney's fees and court costs.

(f) The attorney general may bring an action on behalf of a property owner to contest an impact fee or to recover a refund for an impact fee under Section 395.025.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by:

Acts 2025, 89th Leg., R.S., Ch. 506 (S.B. 1883), Sec. 8, eff. September 1, 2025.

Sec. 395.079. IMPACT FEE FOR STORM WATER, DRAINAGE, AND FLOOD CONTROL IN POPULOUS COUNTY. (a) Any county that has a population of 3.3 million or more or that borders a county with a population of 3.3 million or more, and any district or authority created under Article XVI, Section 59, of the Texas Constitution within any such county that is authorized to provide storm water, drainage, and flood

control facilities, is authorized to impose impact fees to provide storm water, drainage, and flood control improvements necessary to accommodate new development.

(b) The imposition of impact fees authorized by Subsection (a) is exempt from the requirements of Sections 395.025, 395.052-395.057, and 395.074 unless the political subdivision proposes to increase the impact fee.

(c) Any political subdivision described by Subsection (a) is authorized to pledge or otherwise contractually obligate all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued or incurred by or on behalf of the political subdivision and to the payment of any other contractual obligations.

(d) An impact fee adopted by a political subdivision under Subsection (a) may not be reduced if:

(1) the political subdivision has pledged or otherwise contractually obligated all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision; and

(2) the political subdivision agrees in the pledge or contract not to reduce the impact fees during the term of the bonds, notes, or other contractual obligations.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 107, eff. Sept. 1, 2001.

Sec. 395.080. CHAPTER NOT APPLICABLE TO CERTAIN WATER-RELATED SPECIAL DISTRICTS. (a) This chapter does not apply to impact fees, charges, fees, assessments, or contributions:

(1) paid by or charged to a district created under Article XVI, Section 59, of the Texas Constitution to another district created under that constitutional provision if both districts are required by law to obtain approval of their bonds by the Texas Commission on Environmental Quality; or

(2) charged by an entity if the impact fees, charges, fees, assessments, or contributions are approved by the Texas Commission on Environmental Quality.

(b) Any district created under Article XVI, Section 59, or

Article III, Section 52, of the Texas Constitution may petition the Texas Commission on Environmental Quality for approval of any proposed impact fees, charges, fees, assessments, or contributions. The commission shall adopt rules for reviewing the petition and may charge the petitioner fees adequate to cover the cost of processing and considering the petition. The rules shall require notice substantially the same as that required by this chapter for the adoption of impact fees and shall afford opportunity for all affected parties to participate.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.257, eff. Sept. 1, 1995.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 986 (S.B. 766), Sec. 34, eff. September 1, 2025.

Sec. 395.081. FEES FOR ADJOINING LANDOWNERS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 115,000 or less that constitutes more than three-fourths of the population of the county in which the majority of the area of the municipality is located.

(b) A municipality that has not adopted an impact fee under this chapter that is constructing a capital improvement, including sewer or waterline or drainage or roadway facilities, from the municipality to a development located within or outside the municipality's boundaries, in its discretion, may allow a landowner whose land adjoins the capital improvement or is within a specified distance from the capital improvement, as determined by the governing body of the municipality, to connect to the capital improvement if:

(1) the governing body of the municipality has adopted a finding under Subsection (c); and

(2) the landowner agrees to pay a proportional share of the cost of the capital improvement as determined by the governing body of the municipality and agreed to by the landowner.

(c) Before a municipality may allow a landowner to connect to a capital improvement under Subsection (b), the municipality shall adopt a finding that the municipality will benefit from allowing the landowner to connect to the capital improvement. The finding shall

describe the benefit to be received by the municipality.

(d) A determination of the governing body of a municipality, or its officers or employees, under this section is a discretionary function of the municipality and the municipality and its officers or employees are not liable for a determination made under this section.

Added by Acts 1997, 75th Leg., ch. 1150, Sec. 1, eff. June 19, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1043 (H.B. 3111), Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 100, eff. September 1, 2011.

CHAPTER 397. STRATEGIC PLANNING RELATING TO MILITARY BASES AND DEFENSE FACILITIES

Sec. 397.001. DEFINITIONS. In this chapter:

(1) "Defense community" means a political subdivision, including a municipality, county, or special district, that is adjacent to, is near, or encompasses any part of a military base or defense facility.

(2) "Defense facility" means a government agency, private business, or other entity providing a United States Department of Defense related function or a private business that provides direct services or products to the United States Department of Defense.

(3) "Military base" means a federally owned or operated military installation or facility that is presently functioning or was closed as a result of the United States Department of Defense base realignment process.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 9, eff. May 27, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 396 (S.B. 1481), Sec. 4, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1160 (H.B. 3302), Sec. 7, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 13, eff. September 1, 2013.

Sec. 397.002. MILITARY BASE OR DEFENSE FACILITY VALUE

ENHANCEMENT STATEMENT. (a) A defense community that applies for financial assistance from the Texas military value revolving loan account under Section 436.153, Government Code, shall prepare, in consultation with the authorities from each military base or defense facility associated with the community, a military base or defense facility value enhancement statement that illustrates specific ways the funds will enhance the military or defense value of the military base or defense facility and must include the following information for each project:

(1) the purpose for which financial assistance is requested, including a description of the project;

(2) the source of other funds for the project;

(3) a statement on how the project will enhance the military or defense value of the military base or defense facility;

(4) whether the defense community has coordinated the project with authorities of the military base or defense facility and whether any approval has been obtained from those authorities;

(5) whether any portion of the project is to occur on the military base or defense facility;

(6) whether the project will have any negative impact on the natural or cultural environment;

(7) a description of any known negative factors arising from the project that will affect the community or the military base or defense facility; and

(8) a description of how the project will address future base realignment or closure or a negative United States Department of Defense decision.

(b) The Texas Military Preparedness Commission may require a defense community to provide any additional information the commission requires to evaluate the community's request for financial assistance under this section.

(c) Two or more defense communities near the same military base or defense facility that apply for financial assistance from the Texas military value revolving loan account may prepare a joint statement.

(d) A copy of the military base or defense facility value enhancement statement shall be distributed to the authorities of each military base or defense facility included in the statement and the Texas Military Preparedness Commission.

(e) This section does not prohibit a defense community that is

not applying for financial assistance from preparing a military base or defense facility value enhancement statement under this section.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 9, eff. May 27, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 396 (S.B. 1481), Sec. 5, eff. June 17, 2005.
Acts 2005, 79th Leg., Ch. 1160 (H.B. 3302), Sec. 8, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 14, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 15, eff. September 1, 2013.

Sec. 397.0021. DEFENSE COMMUNITY ECONOMIC REDEVELOPMENT VALUE STATEMENT. (a) A defense community that is adjacent to a closed military base or defense facility and applies for financial assistance from the Texas military value revolving loan account shall prepare an economic redevelopment value statement that illustrates specific ways the funds will be used to promote economic development in the community and include the following information for each project:

(1) the purpose for which financial assistance is requested, including a description of the project;

(2) the source of other funds for the project;

(3) a statement on how the project will promote economic development in the community;

(4) whether any portion of the project is to occur on a closed military base or defense facility;

(5) whether any approval has been obtained from those authorities retaining or receiving title to that portion of the closed military base or defense facility to be affected by the project;

(6) whether the project will have any negative impact on the natural or cultural environment; and

(7) a description of any known negative factors arising from the project that will affect the defense community.

(b) The Texas Military Preparedness Commission may require a defense community to provide any additional information the

commission requires to evaluate the community's request for financial assistance under this section.

(c) Two or more defense communities near the same military base or defense facility that apply for financial assistance from the Texas military value revolving loan account may prepare a joint statement.

(d) A copy of the economic redevelopment value statement shall be distributed to the Texas Military Preparedness Commission and any defense community which may be affected by the resulting project.

(e) This section does not prohibit a defense community that is not applying for financial assistance from preparing an economic redevelopment value statement under this section.

Added by Acts 2005, 79th Leg., Ch. 396 (S.B. 1481), Sec. 6, eff. June 17, 2005.
Added by Acts 2005, 79th Leg., Ch. 1160 (H.B. 3302), Sec. 9, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 16, eff. September 1, 2013.

Sec. 397.003. COMPREHENSIVE DEFENSE COMMUNITY STRATEGIC IMPACT PLAN. (a) A defense community may request financial assistance from the Texas military value revolving loan account to prepare a comprehensive defense community strategic impact plan that states the defense community's long-range goals and development proposals relating to the following purposes:

(1) controlling negative effects of future growth of the defense community on the military base or defense facility and minimizing encroachment on military exercises or training activities connected to the military base or defense facility;

(2) enhancing the military or defense value of the military base or defense facility while reducing operating costs; and

(3) identifying which, if any, property and services in a region can be shared by the military base or defense facility and the defense community.

(b) The comprehensive defense community strategic impact plan should include, if appropriate, maps, diagrams, and text to support its proposals and must include the following elements as they relate

to each military base or defense facility included in the plan:

(1) a land use element that identifies:

(A) proposed distribution, location, and extent of land uses such as housing, business, industry, agriculture, recreation, public buildings and grounds, and other categories of public and private land uses as those uses may impact the base or facility; and

(B) existing and proposed regulations of land uses, including zoning, annexation, or planning regulations as those regulations may impact the base or facility;

(2) a transportation element that identifies the location and extent of existing and proposed freeways, streets, and roads and other modes of transportation;

(3) a population growth element that identifies past and anticipated population trends;

(4) a water resources element that:

(A) addresses currently available surface water and groundwater supplies; and

(B) addresses future growth projections and ways in which the water supply needs of the defense community and the base or facility can be adequately served by the existing resources, or if such a need is anticipated, plans for securing additional water supplies;

(5) a conservation element that describes methods for conservation, development, and use of natural resources, including land, forests, soils, rivers and other waters, wildlife, and other natural resources;

(6) an open-space area element that includes:

(A) a list of existing open-space land areas;

(B) an analysis of the base's or facility's forecasted needs for open-space areas to conduct its military training activities; and

(C) suggested strategies under which land on which some level of development has occurred can make a transition to an open-space area, if needed;

(7) a restricted airspace element that creates buffer zones, if needed, between the base or facility and the defense community; and

(8) a military training route element that identifies existing routes and proposes plans for additional routes, if needed.

(c) Two or more defense communities near the same military base

or defense facility may prepare a joint plan.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 9, eff. May 27, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 17, eff. September 1, 2013.

Sec. 397.004. PLANNING MANUAL. A defense community that has prepared a comprehensive defense community strategic impact plan described by Section 397.003 is encouraged to develop, in coordination with the authorities of each military base or defense facility associated with the community, a planning manual based on the proposals contained in the plan. The manual should adopt guidelines for community planning and development to further the purposes described under Section 397.002. The defense community should, from time to time, consult with military base or defense facility authorities regarding any changes needed in the planning manual guidelines adopted under this section.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 9, eff. May 27, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 17, eff. September 1, 2013.

Sec. 397.005. CONSULTATION WITH OR NOTIFICATION TO MILITARY BASE OR DEFENSE FACILITY AUTHORITIES: PROPOSED ORDINANCE, RULE, OR PLAN. (a) This subsection applies to a defense community other than a defense community described by Subsection (b). If a defense community determines that an ordinance, rule, or plan proposed by the community may impact a military base or defense facility or the military exercise or training activities connected to the base or facility, the defense community shall seek comments and analysis from the base or facility authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. The defense community shall consider and analyze the comments and analysis before making a final determination relating to the proposed ordinance, rule, or plan.

(b) This subsection applies only to a defense community that includes a municipality with a population of more than 125,000

located primarily in a county with a population of less than 145,000 and that has not adopted airport zoning regulations under Chapter 241. A defense community that proposes to adopt or amend an ordinance, rule, or plan in an area located within eight miles of the boundary line of a military base or defense facility shall notify the base or facility authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations.

(c) A defense community that proposes to adopt or amend an ordinance, rule, or plan that would be applicable in a controlled compatible land use area as defined by Section 241.003 and that may impact base operations shall notify the base or facility authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. This subsection applies only to a defense community that has not adopted airport zoning regulations under Chapter 241 and that:

(1) is a county with a population of more than 1.5 million that contains a municipality in which at least 70 percent of the county's population resides;

(2) is a county with a population of 170,000 or more that is adjacent to a county described by Subdivision (1);

(3) is located in a county described by Subdivision (1) or (2); or

(4) is or includes a municipality that is located in a county with a population of more than 100,000 and less than 130,000 that borders the Red River.

(d) A defense community described by Subsection (c) may enter into a memorandum of agreement with the military base or defense facility to establish a smaller area in the controlled compatible land use area for which notification under Subsection (c) would be required by the defense community.

(e) After providing notice under Subsection (c), the defense community shall enter into a memorandum of agreement with the military base or defense facility to establish provisions to maintain the compatibility of the proposed ordinance, rule, or plan with base operations.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 9, eff. May 27, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1140 (H.B. 1665), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1140 (H.B. 1665), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1140 (H.B. 1665), Sec. 5, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 17, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 738 (H.B. 1640), Sec. 1, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 193, eff. September 1, 2023.

Sec. 397.006. CONSULTATION WITH OR NOTIFICATION TO MILITARY BASE OR DEFENSE FACILITY AUTHORITIES: PROPOSED STRUCTURE. (a) Subsection (b) applies only to a defense community that includes a municipality with a population of more than 125,000 located primarily in a county with a population of less than 145,000 and that has not adopted airport zoning regulations under Chapter 241.

(b) On receipt of an application for a permit as described by Section 245.001 for a proposed structure in an area located within eight miles of the boundary line of a military base or defense facility, the defense community reviewing the application shall notify the base or facility authorities concerning the compatibility of the proposed structure with base operations.

(c) On receipt of an application for a permit as defined by Section 245.001 for a proposed structure that would be located in a controlled compatible land use area as defined by Section 241.003 and may impact base operations, a defense community shall notify the base or facility authorities concerning the compatibility of the proposed structure with base operations. This subsection applies only to a defense community that has not adopted airport zoning regulations under Chapter 241 and that:

(1) is a county with a population of more than 1.5 million that contains a municipality in which at least 70 percent of the county's population resides;

(2) is a county with a population of 170,000 or more that is adjacent to a county described by Subdivision (1);

(3) is located in a county described by Subdivision (1) or

(2); or

(4) is or includes a municipality that is located in a county with a population of more than 100,000 and less than 130,000 that borders the Red River.

(c-1) A defense community described by Subsection (c) may enter into a memorandum of agreement with the military base or defense facility to establish a smaller area in the controlled compatible land use area for which notification under Subsection (c) would be required by the defense community.

(c-2) After providing notice under Subsection (c), a defense community shall enter into a memorandum of agreement with the military base or defense facility to establish provisions to maintain the compatibility of the proposed structure with base operations.

(d) This section does not apply if a defense community is required to take immediate action on an application to protect the public health, safety, or welfare of residents of the defense community.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 2, eff. June 19, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1140 (H.B. 1665), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1140 (H.B. 1665), Sec. 4, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1140 (H.B. 1665), Sec. 5, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 18, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 19, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 738 (H.B. 1640), Sec. 2, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 194, eff. September 1, 2023.

Sec. 397.007. PUBLIC INFORMATION REGARDING IMPACT OF MILITARY INSTALLATIONS. A county and any municipality in which is located a military installation shall work closely with the military

installation as necessary to ensure that the most recent Air Installation Compatible Use Zone Study or Joint Land Use Study applicable to each military installation or a link to that information is publicly available on the local governmental entity's Internet website.

Added by Acts 2017, 85th Leg., R.S., Ch. 35 (H.B. 890), Sec. 1, eff. September 1, 2017.

CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS RELATING TO CERTAIN MILITARY INSTALLATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 397A.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas that surround military installations will be frequented for military, national security, and international training purposes by residents from many parts of the state, nation, and world;

(2) compatible development and use of those areas is of concern to the state and nation; and

(3) without adequate regulation, the areas will tend to become incompatible with military missions and will be used in ways that interfere with:

(A) the proper continued use of those areas as secure locations for military installations and missions; and

(B) the effective operation of the military installations and missions.

(b) The powers granted under this chapter are for the purposes of:

(1) promoting the public health, safety, and general welfare;

(2) protecting and preserving places and areas of military and national security importance and significance;

(3) protecting critical military missions and operations related to those missions; and

(4) ensuring state and national security.

(c) This chapter may not be interpreted to grant regulatory powers to administer Chapter 245 or to amend a protection or benefit provided by Chapter 245.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

SUBCHAPTER B. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS IN POPULOUS AREAS

Sec. 397A.051. APPLICABILITY. (a) A regulation or compatible development standard adopted under this subchapter does not apply to:

(1) a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision;

(2) a tract of land in agricultural use;

(3) an activity or a structure or appurtenance on a tract of land in agricultural use; or

(4) an area designated as part of the commission's territory under Section 397A.052 that is subject to the jurisdiction of a regulatory agency as defined by Section 245.001, and that, on the effective date of the Act adding this chapter, is:

(A) within the boundaries of a project as defined by Section 245.001 and any revision to the project that has accrued rights under Chapter 245;

(B) the subject of a permit as defined by Section 245.001 issued by or a permit application filed with a regulatory agency as defined by Section 245.001; or

(C) subject to a plan for development or plat application filed with a regulatory agency as defined by Section 245.001.

(b) In this section:

(1) "Agricultural use" means use or activity involving agriculture.

(2) "Agriculture" means:

(A) cultivating the soil to produce crops for human food, animal feed, seed for planting, or the production of fibers;

(B) practicing floriculture, viticulture, silviculture, or horticulture;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a government program or normal crop or livestock

rotation procedure; or

(E) engaging in wildlife management.

(c) A term used in this subchapter that is defined or used in Chapter 245 has the meaning assigned by Chapter 245.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.052. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) This section applies only to:

(1) a county:

(A) in which three or more locations of a joint military base are located; and

(B) with a population of more than 1.7 million;

(2) a county that is adjacent to a county described by Subdivision (1); and

(3) a municipality located in a county described by Subdivision (1) or (2).

(b) One or more municipalities with extraterritorial jurisdiction located within five miles of the boundary line of a military installation and one or more counties with unincorporated area located within five miles of the boundary of a military installation may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this subchapter with respect to the military installation.

(c) A commission's territory consists of the area:

(1) located outside the military installation's boundaries and:

(A) within two miles of the boundary line of a military installation, except as provided by Paragraph (B); or

(B) for a commission established for a military installation engaged in flight training at the time the commission is established, within a rectangle bounded by lines located no farther than 1-1/2 statute miles from the centerline of a runway of the installation and lines located no farther than five statute miles from each end of the paved surface of a runway of the installation;

(2) located in:

(A) the extraterritorial jurisdiction of a participating municipality; or

(B) the unincorporated area of a participating county; and

(3) designated as the commission's territory when the commission is established.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 765 , Sec. 2, eff. September 1, 2015.

(e) This subchapter shall be narrowly construed in conformity with the findings and purposes under Section 397A.001.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 765 (H.B. 2232), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 765 (H.B. 2232), Sec. 2, eff. September 1, 2015.

Sec. 397A.053. HEARING ON CREATION OF COMMISSION. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory.

(b) The notice required by Subsection (a) must:

(1) state the date, time, and place for the public hearing;

(2) identify the boundaries of the proposed territory, including a map of the proposed territory; and

(3) provide a description of the proposed commission's functions.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.054. MEMBERS OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) The regional military sustainability commission is

composed of not more than nine members.

(b) Participating governmental entities may by joint agreement determine the number, qualifications, and method of selecting members of a commission.

(c) A member of a commission may not be an elected official of a participating county or municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.055. COMMISSION REVIEW OF NEW PROJECTS. (a) In this section, "new project" means a project, as that term is defined by Section 245.001, for which an application for a permit that will establish a vesting date under Chapter 245 has not been submitted to a regulatory agency before the effective date of the Act adding this chapter. The term does not include a revision to a project commenced before the effective date of the Act adding this chapter.

(b) A regional military sustainability commission shall establish an advisory committee and appoint six members to the committee. Three of the members appointed to the committee must represent the military installation for which the commission is established and three members must represent landowners in the area surrounding the military installation. The committee shall advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) On receipt of an application for a permit for a new project in the commission's territory, the governing body of the participating governmental entity shall review the application and request a report from the commission regarding the proposed project. The commission, with the advice of the advisory committee, shall review the compatibility of the new project with the military installation's military missions and related operations based on the commission's compatible development standards. The commission shall submit a report of its findings, including a recommendation regarding compatibility, to the reviewing governmental entity not later than the 30th calendar day after the date the request was made. The report must include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission, if the fiscal impact is determinable based on the project description and

other information provided by the developer.

(d) The reviewing governmental entity may not take action on the permit application until it receives the report of the commission. If the commission finds that the proposed new project is not compatible with the military installation's missions and recommends denial of the permit application, the reviewing governmental entity may disapprove the permit application.

(e) On annexation of an area in the commission's territory for full or limited purposes by a municipality, the area is removed from the commission's territory. If the municipality disannexes the area, the area is included in the commission's territory.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.056. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS. (a) Before exercising the duties described by Section 397A.055, a regional military sustainability commission shall recommend compatible development standards for the territory. The commission must consider, as part of the regional compatible development standards, standards required by the Federal Aviation Administration regulations for military installations that service aircraft and helicopters. The commission shall submit the proposed compatible development standards to the participating governmental entities for approval.

(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall:

(1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and

(2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory.

(c) The failure of notice to reach each property owner under Subsection (b) does not invalidate compatible development standards adopted under this section.

(d) The compatible development standards are final after approval by a majority vote of each participating governmental

entity. Notice of the final compatible development standards must be provided to all appropriate taxing entities for filing in the real property records of the county.

(e) The commission may include in the proposed compatible development standards a recommendation to a participating governmental entity to purchase property in the commission's territory as practical to protect a critical military mission.

(f) The commission may recommend amendments to approved compatible development standards. The participating governmental entities may approve the commission's proposed standards under procedures adopted by the entities.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.057. COORDINATION WITH OTHER PLANS AND STUDIES. The compatible development standards and regulations adopted under this subchapter must be coordinated with:

(1) the county plan for growth and development of the participating county or a county located in the regional military sustainability commission's territory;

(2) the comprehensive plan of the participating municipality; and

(3) the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.058. CONFLICT WITH OTHER LAWS. Except with respect to Chapter 245, if a regulation adopted under this subchapter conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.059. FUNDS. (a) A participating governmental entity may appropriate funds to the commission for the costs and expenses required in the performance of the commission's purposes.

(b) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental entity, the state, the federal government, or any other source.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.060. WITHDRAWAL FROM COMMISSION. A participating governmental entity may withdraw from a regional military sustainability commission:

(1) by a two-thirds vote of its governing body; and

(2) after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.061. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. A regional military sustainability commission that has territory around a military installation that is closed by the federal government and the regional compatible development standards for the commission's territory may continue in effect until the fourth anniversary of the date the military installation is closed.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.062. JUDICIAL REVIEW OF COMMISSION OR GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision of this subchapter, a landowner aggrieved by a report submitted by the regional military sustainability commission or by a permit application decision of the participating governmental entity under this subchapter may appeal all or part of the report or permit

application decision to a district court. The court may reverse or modify, wholly or partly, the report submitted by the commission or the permit application decision that is appealed.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

SUBCHAPTER C. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS IN LESS POPULOUS AREAS

Sec. 397A.101. APPLICABILITY. (a) A regulation or compatible development standard adopted under this subchapter does not apply to:

(1) an area located in a county with a population of less than 5,000 that is adjacent to an international border;

(2) a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision;

(3) a tract of land in agricultural use;

(4) an activity or a structure or appurtenance on a tract of land in agricultural use; or

(5) any activity or a project, as that term is defined by Section 245.001, that is:

(A) occurring or in existence on the effective date of the Act adding this chapter; or

(B) receiving the benefits of or protected under Chapter 245.

(b) In this section, "agricultural use" and "agriculture" have the meanings assigned by Section 397A.051.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.102. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) A county with a population of 60,000 or less and a municipality that, with respect to the same active military installation, constitutes a defense community, as defined by Section 397.001, may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this subchapter in an area that is located:

(1) in the same county as the active military installation; and

(2) in the extraterritorial jurisdiction of the municipality.

(b) Defense communities may not establish more than one commission in a county.

(c) A commission's territory consists of the unincorporated area located within five miles of the boundary line of a military installation designated as the commission's territory when the commission is established.

(d) This subchapter shall be narrowly construed in conformity with the findings and purposes under Section 397A.001.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.103. HEARING ON CREATION OF COMMISSION. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory.

(b) The notice required by Subsection (a) must:

(1) state the date, time, and place for the public hearing;

(2) identify the boundaries of the proposed territory, including a map of the proposed territory; and

(3) provide a description of the proposed commission's functions.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.104. MEMBERS OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) The regional military sustainability commission is composed of not more than nine members.

(b) Participating governmental entities may by joint agreement determine the number, qualifications, and method of selecting members

of a commission.

(c) A member of a commission may not be an elected official of a participating county or municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.105. COMMISSION REVIEW OF NEW PROJECTS. (a) In this section, "new project" means a project, as that term is defined by Section 245.001, for which an application for a permit that will establish a vesting date under Chapter 245 has not been submitted to a regulatory agency before the effective date of the Act adding this chapter, including a water contract, sewer contract, or master plan.

(b) A regional military sustainability commission shall establish an advisory committee and appoint six members to the committee. Three of the members appointed to the committee must represent the military installation for which the commission is established and three members must represent landowners in the area surrounding the military installation. The committee shall advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) On receipt of an application for a permit for a new project in the commission's territory, the governing body of the participating governmental entity shall review the application and request a report from the commission regarding the proposed project. The commission, with the advice of the advisory committee, shall review the compatibility of the new project with the military installation's military missions and related operations based on the commission's compatible development standards. The commission shall submit a report of its findings, including a recommendation regarding compatibility, to the reviewing governmental entity not later than the 15th calendar day after the date the request was made. The report must include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission as part of the report.

(d) The reviewing governmental entity may not take action on the permit application until it receives the report of the commission. If the commission finds that the proposed new project is not compatible with the military installation's missions and

recommends denial of the permit application, the reviewing governmental entity may disapprove the permit application.

(e) On annexation of an area in the commission's territory for full or limited purposes by a municipality, the area is removed from the commission's territory. If the municipality disannexes the area, the area is included in the commission's territory.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.106. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS. (a) Before exercising the duties described by Section 397A.105, a regional military sustainability commission shall recommend compatible development standards for the territory. The commission must consider, as part of the regional compatible development standards, the Federal Aviation Administration regulations regarding height restrictions surrounding a military installation that services aircraft and helicopters. The commission shall submit the proposed compatible development standards to the participating governmental entities for approval.

(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall:

(1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and

(2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory.

(c) The failure of notice to reach each property owner under Subsection (b) does not invalidate compatible development standards adopted under this section.

(d) The compatible development standards are final after approval by a majority vote of each participating governmental entity. Notice of the final compatible development standards must be provided to all appropriate taxing entities for filing in the real property records of the county.

(e) The commission may include in the proposed compatible development standards a recommendation to a participating

governmental entity to purchase property in the commission's territory as practical to protect a critical military mission.

(f) The commission may recommend amendments to approved compatible development standards. The participating governmental entities may approve the commission's proposed standards under procedures adopted by the entities.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.107. COORDINATION WITH OTHER PLANS AND STUDIES. The compatible development standards and regulations adopted under this subchapter must be coordinated with:

(1) the county plan for growth and development of the participating county or a county located in the regional military sustainability commission's territory;

(2) the comprehensive plan of the participating municipality; and

(3) the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.108. CONFLICT WITH OTHER LAWS. Except with respect to Chapter 245, if a regulation adopted under this subchapter conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.109. FUNDS. (a) A participating governmental entity may appropriate funds to the commission for the costs and expenses required in the performance of the commission's purposes.

(b) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating

governmental entity, the state, the federal government, or any other source.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.110. WITHDRAWAL FROM COMMISSION. A participating governmental entity may withdraw from a regional military sustainability commission:

(1) by a two-thirds vote of its governing body; and

(2) after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.111. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. A regional military sustainability commission that has territory around a military installation that is closed by the federal government and the regional compatible development standards for the commission's territory may continue in effect until the fourth anniversary of the date the military installation is closed.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

Sec. 397A.112. JUDICIAL REVIEW OF COMMISSION OR GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision of this subchapter, a landowner aggrieved by a report submitted by the regional military sustainability commission or by a permit application decision of the participating governmental entity under this subchapter may appeal all or part of the report or permit application decision to a district court, county court, or county court at law. The court may reverse or modify, wholly or partly, the report submitted by the commission or the permit application decision that is appealed.

Added by Acts 2009, 81st Leg., R.S., Ch. 1320 (H.B. 2919), Sec. 3, eff. June 19, 2009.

CHAPTER 399. MUNICIPAL AND COUNTY WATER AND ENERGY IMPROVEMENT REGIONS

Sec. 399.001. SHORT TITLE. This chapter may be cited as the Property Assessed Clean Energy Act.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.

Sec. 399.002. DEFINITIONS. In this chapter:

(1) "Local government" means a municipality or county.

(2) "Program" means a program established under this chapter.

(3) "Qualified improvement" means a permanent improvement fixed to real property and intended to decrease water or energy consumption or demand, including a product, device, or interacting group of products or devices on the customer's side of the meter that uses energy technology to generate electricity, provide thermal energy, or regulate temperature.

(4) "Qualified project" means the installation or modification of a qualified improvement.

(5) "Real property" means privately owned commercial or industrial real property or residential real property with five or more dwelling units.

(6) "Region" means a region designated under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.

Sec. 399.003. EXERCISE OF POWERS. (a) In addition to the authority provided by Chapter 376 for municipalities, the governing body of a local government that establishes a program in accordance with the requirements provided by Section 399.008 may exercise powers granted under this chapter.

(b) The establishment and operation of a program under this chapter by a local government is a governmental function for all

purposes.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 577 (H.B. 3187), Sec. 1, eff. June 16, 2015.

Sec. 399.004. AUTHORIZED ASSESSMENTS. (a) An assessment under this chapter may be imposed to repay the financing of qualified projects on real property located in a region designated under this chapter.

(b) An assessment under this chapter may not be imposed to repay the financing of:

(1) facilities for undeveloped lots or lots undergoing development at the time of the assessment; or

(2) the purchase or installation of products or devices not permanently fixed to real property.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.

Sec. 399.005. WRITTEN CONTRACT FOR ASSESSMENT REQUIRED. A local government may impose an assessment under this chapter only under a written contract with the record owner of the real property to be assessed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.

Sec. 399.006. ESTABLISHMENT OF PROGRAM. (a) The governing body of a local government may determine that it is convenient and advantageous to establish a program under this chapter.

(b) An authorized representative of the local government that establishes a program may enter into a written contract with a record owner of real property in a region designated under this chapter to impose an assessment to repay the owner's financing of a qualified project on the owner's property. The financing to be repaid through

assessments may be provided by a third party or, if authorized by the program, by the local government.

(c) If the program provides for third-party financing, the authorized representative of the local government that enters into a written contract with a property owner under Subsection (b) must also enter into a written contract with the party that provides financing for a qualified project under the program to service the debt through assessments.

(d) If the program provides for local government financing, the written contract described by Subsection (b) must be a contract to finance the qualified project through assessments.

(e) The financing for which assessments are imposed may include:

(1) the cost of materials and labor necessary for installation or modification of a qualified improvement;

(2) permit fees;

(3) inspection fees;

(4) lender's fees;

(5) program application and administrative fees;

(6) project development and engineering fees;

(7) third-party review fees, including verification review fees, under Section 399.011; and

(8) any other fees or costs that may be incurred by the property owner incident to the installation, modification, or improvement on a specific or pro rata basis, as determined by the local government.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 577 (H.B. 3187), Sec. 2, eff. June 16, 2015.

Sec. 399.007. DESIGNATION OF REGION. (a) The governing body of a local government may determine that it is convenient and advantageous to designate an area of the local government as a region within which the authorized representative of the local government and record owners of real property may enter into written contracts to impose assessments to repay the financing by owners of qualified

projects on the owners' property and, if authorized by the local government program, finance the qualified project.

(b) An area designated as a region by the governing body of a local government under this section:

(1) may include the entire local government; and

(2) must be located wholly within the local government's jurisdiction.

(c) For purposes of determining a municipality's jurisdiction under Subsection (b)(2), the municipality's extraterritorial jurisdiction may be included.

(d) A local government may designate more than one region. If multiple regions are designated, the regions may be separate, overlapping, or coterminous.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 577 (H.B. 3187), Sec. 3, eff. June 16, 2015.

Sec. 399.008. PROCEDURE FOR ESTABLISHMENT OF PROGRAM. (a) To establish a program under this chapter, the governing body of a local government must take the following actions in the following order:

(1) adopt a resolution of intent that includes:

(A) a finding that, if appropriate, financing qualified projects through contractual assessments is a valid public purpose;

(B) a statement that the local government intends to make contractual assessments to repay financing for qualified projects available to property owners;

(C) a description of the types of qualified projects that may be subject to contractual assessments;

(D) a description of the boundaries of the region;

(E) a description of any proposed arrangements for third-party financing to be available or any local government financing to be provided for qualified projects;

(F) a description of local government debt servicing procedures if third-party financing will be provided and assessments will be collected to service a third-party debt;

(G) a reference to the report on the proposed program

prepared as provided by Section 399.009 and a statement identifying the location where the report is available for public inspection;

(H) a statement of the time and place for a public hearing on the proposed program; and

(I) a statement identifying the appropriate representative of the local government and the appropriate assessor-collector for purposes of consulting regarding collecting the proposed contractual assessments imposed on the assessed property;

(2) hold a public hearing at which the public may comment on the proposed program, including the report required by Section 399.009; and

(3) adopt a resolution establishing the program and the terms of the program, including:

(A) each item included in the report under Section 399.009; and

(B) a description of each aspect of the program that may be amended only after another public hearing is held.

(b) For purposes of Subsection (a)(3)(A), the resolution may incorporate the report or the amended version of the report, as appropriate, by reference.

(c) Subject to the terms of the resolution establishing the program as referenced by Subsection (a)(3)(B), the governing body of a local government may amend a program by resolution.

(d) A local government may:

(1) hire and set the compensation of a program administrator and program staff; or

(2) contract for professional services necessary to administer a program.

(e) A local government may impose fees to offset the costs of administering a program. The fees authorized by this subsection may be assessed as:

(1) a program application fee paid by the property owner requesting to participate in the program expressed as a set amount, a percentage of the amount of the assessment, or in any other manner;

(2) a component of the interest rate on the assessment in the written contract between the local government and the property owner; or

(3) a combination of Subdivisions (1) and (2).

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff.

June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 577 (H.B. 3187), Sec. 4, eff. June 16, 2015.

Sec. 399.009. REPORT REGARDING ASSESSMENT. (a) The report for a proposed program required by Section 399.008 must include:

(1) a map showing the boundaries of the proposed region;

(2) a form contract between the local government and the property owner specifying the terms of:

(A) assessment under the program; and

(B) financing provided by a third party or the local government, as appropriate;

(3) if the proposed program provides for third-party financing, a form contract between the local government and the third party regarding the servicing of the debt through assessments;

(4) a description of types of qualified projects that may be subject to contractual assessments;

(5) a statement identifying a local government representative authorized to enter into written contracts on behalf of the local government;

(6) a plan for ensuring sufficient capital for third-party financing and, if appropriate, raising capital for local government financing for qualified projects;

(7) if bonds will be issued to provide capital to finance qualified projects as part of the program as provided by Section 399.016:

(A) a maximum aggregate annual dollar amount for financing through contractual assessments to be provided by the local government under the program;

(B) a method for ranking requests from property owners for financing through contractual assessments in priority order if requests appear likely to exceed the authorization amount; and

(C) a method for determining:

(i) the interest rate and period during which contracting owners would pay an assessment; and

(ii) the maximum amount of an assessment;

(8) a method for ensuring that the period of the contractual assessment does not exceed the useful life of the

qualified project that is the basis for the assessment;

(9) a description of the application process and eligibility requirements for financing qualified projects to be repaid through contractual assessments under the program;

(10) a method as prescribed by Subsection (b) for ensuring that property owners requesting to participate in the program demonstrate the financial ability to fulfill financial obligations to be repaid through contractual assessments;

(11) a statement explaining the manner in which property will be assessed and assessments will be collected;

(12) a statement explaining the lender notice requirement provided by Section 399.010;

(13) a statement explaining the review requirement provided by Section 399.011;

(14) a description of marketing and participant education services to be provided for the program;

(15) a description of quality assurance and antifraud measures to be instituted for the program; and

(16) the procedures for collecting the proposed contractual assessments.

(b) The method for ensuring a demonstration of financial ability under Subsection (a)(10) must be based on appropriate underwriting factors, including:

(1) providing for verification that:

(A) the property owner requesting to participate under the program:

(i) is the legal owner of the benefited property;

(ii) is current on mortgage and property tax payments; and

(iii) is not insolvent or in bankruptcy proceedings; and

(B) the title of the benefited property is not in dispute; and

(2) requiring an appropriate ratio of the amount of the assessment to the assessed value of the property.

(c) The local government shall make the report available for public inspection:

(1) on the local government's Internet website; and

(2) at the office of the representative designated to enter into written contracts on behalf of the local government under the

program.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 577 (H.B. 3187), Sec. 5, eff. June 16, 2015.

Sec. 399.010. NOTICE TO MORTGAGE HOLDER REQUIRED FOR PARTICIPATION. Before a local government may enter into a written contract with a record owner of real property to impose an assessment to repay the financing of a qualified project under this chapter:

(1) the holder of any mortgage lien on the property must be given written notice of the owner's intention to participate in a program under this chapter on or before the 30th day before the date the written contract for assessment between the owner and the local government is executed; and

(2) a written consent from the holder of the mortgage lien on the property must be obtained.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.

Sec. 399.011. REVIEW REQUIRED. (a) A program established under this chapter must require for each proposed qualified project:

(1) a review of water or energy baseline conditions and the projected water or energy savings to establish the projected water or energy savings; and

(2) a verification that a proposed qualified improvement meets the requirements of a qualified project.

(a-1) A verification provided as required under Subsection (a)(2) conclusively establishes that the improvement is a qualified improvement and the project is a qualified project.

(b) After a qualified project is completed, the local government shall require written verification that the qualified project was properly completed and is operating as intended.

(c) A baseline water or energy review or verification review under this section must be conducted by an independent third party.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 577 (H.B. 3187), Sec. 6, eff. June 16, 2015.

Sec. 399.012. DIRECT ACQUISITION BY OWNER. The proposed arrangements for financing a qualified project may authorize the property owner to:

(1) purchase directly the related equipment and materials for the installation or modification of a qualified improvement; and

(2) contract directly, including through lease, power purchase agreement, or other service contract, for the installation or modification of a qualified improvement.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.

Sec. 399.013. RECORDING OF NOTICE OF CONTRACTUAL ASSESSMENT REQUIRED. (a) A local government that authorizes financing through contractual assessments under this chapter shall file written notice of each contractual assessment in the real property records of the county in which the property is located.

(b) The notice under Subsection (a) must contain:

(1) the amount of the assessment;

(2) the legal description of the property;

(3) the name of each property owner; and

(4) a reference to the statutory assessment lien provided under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.

Sec. 399.014. LIEN. (a) A contractual assessment under this chapter and any interest or penalties on the assessment:

(1) is a first and prior lien against the real property on which the assessment is imposed from the date on which the notice of contractual assessment is recorded as provided by Section 399.013 and

until the assessment, interest, or penalty is paid; and

(2) has the same priority status as a lien for any other ad valorem tax.

(a-1) After the notice of a contractual assessment is recorded as provided under Section 399.013, the lien may not be contested on the basis that the improvement is not a qualified improvement or the project is not a qualified project.

(b) The lien runs with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien.

(c) The assessment lien may be enforced by the local government in the same manner that a property tax lien against real property may be enforced by the local government to the extent the enforcement is consistent with Section 50, Article XVI, Texas Constitution.

(d) Delinquent installments of the assessments incur interest and penalties in the same manner as delinquent property taxes.

(e) A local government may recover costs and expenses, including attorney's fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 577 (H.B. 3187), Sec. 7, eff. June 16, 2015.

Sec. 399.015. CONTRACT FOR COLLECTION OF ASSESSMENTS; NO PERSONAL LIABILITY. (a) The governing body of a local government may contract with the governing body of another taxing unit, as defined by Section 1.04, Tax Code, or another entity, including a county assessor-collector, to perform the duties of the local government relating to collection of assessments imposed by the local government under this chapter.

(b) A county assessor-collector who performs the duties of a local government relating to collection of assessments imposed by a local government under this chapter is not personally liable as a result of exercising those duties under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff.

June 14, 2013.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 864 (H.B. 2654), Sec. 1, eff. September 1, 2017.

Sec. 399.016. BONDS OR NOTES. (a) A local government may issue bonds or notes to finance qualified projects through contractual assessments under this chapter.

(b) Bonds or notes issued under this section may not be general obligations of the local government. The bonds or notes must be secured by one or more of the following as provided by the governing body of the local government in the resolution or ordinance approving the bonds or notes:

(1) payments of contractual assessments on benefited property in one or more specified regions designated under this chapter;

(2) reserves established by the local government from grants, bonds, or net proceeds or other lawfully available funds;

(3) municipal bond insurance, lines of credit, public or private guaranties, standby bond purchase agreements, collateral assignments, mortgages, or any other available means of providing credit support or liquidity; and

(4) any other funds lawfully available for purposes consistent with this chapter.

(c) A local government pledge of assessments, funds, or contractual rights in connection with the issuance of bonds or notes by the local government under this chapter is a first lien on the assessments, funds, or contractual rights pledged in favor of the person to whom the pledge is given, without further action by the local government. The lien is valid and binding against any other person, with or without notice.

(d) Bonds or notes issued under this chapter further an essential public and governmental purpose, including:

(1) improvement of the reliability of the state electrical system;

(2) conservation of state water resources consistent with the state water plan;

(3) reduction of energy costs;

(4) economic stimulation and development;

(5) enhancement of property values;
(6) enhancement of employment opportunities; and
(7) reduction in greenhouse gas emissions.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.

Sec. 399.017. JOINT IMPLEMENTATION. (a) Any combination of local governments may agree to jointly implement or administer a program under this chapter, including entering into an interlocal contract under Chapter 791, Government Code, to jointly implement or administer a program.

(b) If two or more local governments implement a program jointly, a single public hearing held jointly by the cooperating local governments is sufficient to satisfy the requirement of Section 399.008(a)(2).

(c) One or more local governments may contract with a third party, including another local government, to administer a program. Local governments that are parties to an interlocal contract described by Subsection (a) may contract with an entity listed in Section 791.013, Government Code, for program administration.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 577 (H.B. 3187), Sec. 8, eff. June 16, 2015.

Sec. 399.018. PROHIBITED ACTS. A local government that establishes a region under this chapter may not:

(1) make the issuance of a permit, license, or other authorization from the local government to a person who owns property in the region contingent on the person entering into a written contract to repay the financing of a qualified project through contractual assessments under this chapter; or

(2) otherwise compel a person who owns property in the region to enter into a written contract to repay the financing of a qualified project through contractual assessments under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 416 (S.B. 385), Sec. 1, eff. June 14, 2013.

Sec. 399.019. NO PERSONAL LIABILITY. The members of the governing body of a local government, other elected officials of a local government, employees of a local government, and board members, executives, employees, and contractors of a third party who enter into a contract with a local government to provide administrative services for a program under this chapter are not personally liable as a result of exercising any rights or responsibilities granted under this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 577 (H.B. 3187), Sec. 9, eff. June 16, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 864 (H.B. 2654), Sec. 2, eff. September 1, 2017.

SUBTITLE C1. ADDITIONAL PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 501. PROVISIONS GOVERNING DEVELOPMENT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 501.001. SHORT TITLE. This subtitle may be cited as the Development Corporation Act.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.002. DEFINITIONS. In this subtitle:

(1) "Authorizing unit" means the unit that authorizes the creation of a corporation under this subtitle.

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

(3) "Bonds" includes evidences of indebtedness, including bonds and notes.

(4) "Corporate headquarters facilities" means buildings proposed for construction or occupancy as the principal office for a business enterprise's administrative and management services.

(5) "Corporation" means a corporation organized under this subtitle.

(6) "Cost," with respect to a project, has the meaning assigned by Section 501.152.

(7) "County alliance" means two or more counties that jointly authorize the creation of a corporation under this subtitle.

(8) "District" means a conservation and reclamation district established under Section 59, Article XVI, Texas Constitution.

(9) "Economic development office" means the Texas Economic Development and Tourism Office within the office of the governor.

(10) "Governing body" means the commissioners court of a county or the governing body of a municipality or district.

(11) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(12) "Primary job" means:

(A) a job that is:

(i) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and

(ii) included in one of the following sectors of the North American Industry Classification System (NAICS):

NAICS Sector #	Description
111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211-213	Mining
221	Utilities
311-339	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51 (excluding 512131 and 512132)	Information (excluding motion picture theaters and drive-in motion picture theaters)

523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416, 5417, and 5419	Architectural, Engineering, and Related Services; Computer System Design and Related Services; Management, Scientific, and Technical Consulting Services; Scientific Research and Development Services; Other Professional, Scientific, and Technical Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers
922140	Correctional Institutions; or

(B) a job that is included in North American Industry Classification System (NAICS) sector number 928110, National Security, for the corresponding index entries for Armed Forces, Army, Navy, Air Force, Marine Corps, and Military Bases.

(13) "Project" means a project specified as such under Subchapter C.

(14) "Resolution" means a resolution, order, ordinance, or other official action by the governing body of a unit.

(15) "Type A corporation" means a corporation governed by Chapter 504.

(16) "Type B corporation" means a corporation governed by Chapter 505.

(17) "Unit" means a municipality, county, or district that may create and use a corporation under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.003. WHO MAY BE USER. The following may be a user under this subtitle:

(1) an individual, a partnership, a corporation, or any other private entity organized for profit or not for profit; or

(2) a municipality, county, district, other political subdivision, public entity, or agency of this state or the federal government.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.004. LEGISLATIVE FINDINGS; CONSTRUCTION OF SUBTITLE. (a) The legislature finds that:

(1) the present and prospective right to gainful employment and the general welfare of the people of this state require as a public purpose the promotion and development of new and expanded business enterprises and of job training;

(2) the existence, development, and expansion of business, commerce, industry, higher education, and job training are essential to the economic growth of this state and to the full employment, welfare, and prosperity of residents of this state;

(3) the assistance provided by corporations in promoting higher education opportunities encourages and fosters the development and diversification of the economy of this state and the elimination of unemployment and underemployment in this state;

(4) the means authorized by this subtitle and the assistance provided by this subtitle, especially with respect to financing, are in the public interest and serve a public purpose of this state in promoting the welfare of the residents of this state economically by securing and retaining business enterprises and as a result maintaining a higher level of employment, economic activity, and stability;

(5) community industrial development corporations in this state have invested substantial money in successful industrial development projects and have experienced difficulty in undertaking additional industrial development projects because of the partial inadequacy of the community industrial development corporations' money or money potentially available from local subscription sources and the limitations of local financial institutions in providing additional and sufficiently large first mortgage loans; and

(6) communities in this state have been at a critical disadvantage in competing with communities in other states for the location or expansion of business enterprises because of the

availability and prevalent use in all other states of financing and other special incentives, and, for that reason, the issuance of revenue bonds under this subtitle by a corporation on behalf of political subdivisions of this state for the promotion and development of new and expanded business enterprises to provide and encourage employment and the public welfare is in the public interest and is a public purpose.

(b) This subtitle shall be construed in conformity with the intention of the legislature expressed in this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.005. ADOPTION OF ALTERNATE PROCEDURE. If a court holds that a procedure under this subtitle violates the federal or state constitution, a corporation by resolution may provide an alternate procedure that conforms to the constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.006. USE OF CORPORATION TO FINANCE PROJECT. A unit may use a corporation to issue bonds on the unit's behalf to finance the cost of a project, including a project in a federally designated empowerment zone or enterprise community or in an enterprise zone designated under Chapter 2303, Government Code, to promote and develop new and expanded business enterprises for the promotion and encouragement of employment and the public welfare.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.007. LENDING CREDIT OR GRANTING PUBLIC MONEY. (a) Except as provided by Subsection (b), a unit may not lend its credit or grant public money or another thing of value in aid of a corporation.

(b) A municipality may grant public money to a corporation under a contract authorized by Section 380.002.

(c) The grants, loans, expenditures, and tax exemptions authorized by this subtitle in connection with a project and authorized by a corporation in accordance with this subtitle constitute the making of loans or grants of public money or constitute other actions authorized by Section 52-a, Article III, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.011(a), eff. September 1, 2009.

Sec. 501.008. LIMITATION ON FINANCIAL OBLIGATION. (a) Except as provided by Subsection (b), a corporation may not incur a financial obligation that cannot be paid from:

(1) bond proceeds;

(2) revenue realized from the lease or sale of a project;

(3) revenue realized from a loan made by the corporation to wholly or partly finance or refinance a project; or

(4) money granted under a contract with a municipality under Section 380.002.

(b) A Type A or Type B corporation may obtain a loan from the Texas small and rural community success fund program under Subchapter E, Chapter 489, Government Code, for eligible projects as authorized by this subtitle. To secure the loan, the Type A or Type B corporation may pledge revenue from the sales and use tax imposed by the corporation's authorizing municipality under Chapter 504 or 505, as applicable, for the benefit of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 2, eff. June 18, 2021.

Sec. 501.009. POLICE POWERS NOT AFFECTED. This subtitle does not deprive this state or a governmental subdivision of this state of its police powers over a corporation's property and does not impair

any police power over the property that is otherwise provided by law to any official or agency of this state or its governmental subdivisions.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.010. DELEGATION OF UNIT'S SOVEREIGN POWERS PROHIBITED. A unit may not delegate to a corporation any of the unit's attributes of sovereignty, including the power to tax, the power of eminent domain, and the police power.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.011. REFERENCE TO ARTICLES OF INCORPORATION OR CERTIFICATE OF FORMATION. (a) With respect to a corporation created under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) before January 1, 2006, a reference in any law of this state or in the corporation's governing documents to "articles of incorporation" means, for purposes of this subtitle, the corporation's certificate of formation.

(b) With respect to a corporation that is created under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) before January 1, 2006, and continues to operate under articles of incorporation, a reference in this subtitle or any other law of this state or in the corporation's governing documents to "certificate of formation" means the corporation's articles of incorporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER B. CREATION AND OPERATION OF CORPORATION

Sec. 501.051. AUTHORITY TO CREATE. (a) Three or more individuals who are qualified voters of a unit may file with the unit's governing body a written application requesting the unit to authorize creation of a corporation to act on behalf of the unit.

The governing body may not charge a filing fee for the application.

(b) A corporation may be created only if the governing body of the unit by resolution:

(1) determines that the creation of the corporation is advisable; and

(2) approves the certificate of formation proposed to be used in organizing the corporation.

(c) A unit may authorize the creation of one or more corporations if the resolution authorizing the creation of each corporation specifies the public purpose of the unit to be furthered by the corporation. The specified public purpose must be limited to the promotion and development under this subtitle of enterprises to promote and encourage employment and the public welfare.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.052. NONMEMBER, NONSTOCK FORM OF CORPORATION. A corporation is a nonmember, nonstock corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.053. CORPORATION NONPROFIT; NET EARNINGS. (a) A corporation is nonprofit, and the corporation's net earnings remaining after payment of its expenses may not benefit an individual, firm, or corporation, except as provided by Subsection (b).

(b) If the board of directors determines that sufficient provision has been made for the full payment of the corporation's expenses, bonds, and other obligations, any net earnings of the corporation subsequently accruing shall be paid to the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.054. GENERAL POWERS, PRIVILEGES, AND FUNCTIONS. (a)

A corporation has the powers, privileges, and functions of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or formed under the Texas Nonprofit Corporation Law, as described by Section 1.008, Business Organizations Code. To the extent that the provisions governing powers, privileges, and functions of a nonprofit corporation under those laws are in conflict with or inconsistent with provisions of this subtitle governing powers, privileges, and functions of a nonprofit corporation, the provisions of this subtitle prevail.

(b) A corporation:

(1) has all powers incidental to or necessary for the performance of the powers provided by Sections 501.059, 501.060, 501.064, 501.153-501.155, 501.159, 501.201(a), 501.208, 501.209, 501.214, and 501.402; and

(2) with respect to a project, may exercise all powers necessary or appropriate to effect a purpose for which the corporation is organized, subject to the control of the governing body of the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.055. CONSTITUTED AUTHORITY OR INSTRUMENTALITY. (a) A corporation is a constituted authority and an instrumentality, within the meaning of the United States Department of the Treasury regulations and the Internal Revenue Service rulings adopted under Section 103, Internal Revenue Code of 1986, as amended, including regulations and rulings adopted under Section 103, Internal Revenue Code of 1954, and may act on behalf of the corporation's authorizing unit for the specific public purpose authorized by the unit.

(b) A corporation is not a political subdivision or a political corporation for purposes of the laws of this state, including Section 52, Article III, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.056. CONTENTS OF CERTIFICATE OF FORMATION. The

certificate of formation of a corporation must state:

(1) the name of the corporation;

(2) that the corporation is a nonprofit corporation;

(3) the duration of the corporation, which may be perpetual;

(4) the specific purpose for which the corporation is organized and may issue bonds on behalf of the unit;

(5) that the corporation has no members and is a nonstock corporation;

(6) any provision consistent with law for the regulation of the corporation's internal affairs, including any provision required or permitted by this subtitle to be stated in the bylaws;

(7) the street address of the corporation's initial registered office and the name of the corporation's initial registered agent at that address;

(8) the number of directors of the initial board of directors and the name and address of each initial director;

(9) the name and street address of each organizer; and

(10) that the unit has:

(A) by resolution specifically authorized the corporation to act on the unit's behalf to further the public purpose stated in the resolution and the certificate of formation; and

(B) approved the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.057. FILING OF CERTIFICATE OF FORMATION AND DELIVERY OF CERTIFICATE EVIDENCING FILING. (a) If the unit's governing body adopts a resolution under Section 501.051, the certificate of formation may be filed as provided by this section.

(b) Three originals of the certificate of formation shall be delivered to the secretary of state. If the secretary of state determines that the certificate of formation conforms to this subchapter, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original certificate of formation;

(2) file one of the original certificates of formation in the secretary of state's office;

(3) issue two certificates evidencing the filing of the certificate of formation;

(4) attach to each certificate evidencing the filing of the certificate of formation an original of the certificate of formation; and

(5) deliver a certificate evidencing the filing of the certificate of formation and the attached certificate of formation to:

(A) the organizers or the organizers' representatives; and

(B) the governing body of:

(i) the corporation's authorizing unit; or

(ii) any county in the county alliance that authorized the creation of the corporation, for a county alliance corporation.

(c) The governing body of a county to which a certificate evidencing the filing of the certificate of formation and the attached certificate of formation are delivered under Subsection (b)(5)(B)(ii) shall provide photocopies of the certificate evidencing the filing of the certificate of formation and the attached certificate of formation to each other member of the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.058. EFFECT OF ISSUANCE OF CERTIFICATE EVIDENCING FILING. (a) A corporation's existence begins when the certificate evidencing the filing of its certificate of formation is issued.

(b) After the issuance of the certificate evidencing the filing of the certificate of formation, the formation of the corporation may not be contested for any reason.

(c) A certificate evidencing the filing of the certificate of formation is conclusive evidence that:

(1) the organizers and the unit have performed all conditions precedent for the formation of the corporation; and

(2) the corporation is formed under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.059. CORPORATE SEAL. A corporation may have a corporate seal and with respect to a project may impress, affix, or otherwise reproduce the seal or a facsimile of the seal on an instrument required to be executed by the corporation's appropriate officers.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.060. MAY SUE AND BE SUED. With respect to a project, a corporation may sue, be sued, complain, and defend in the corporation's name.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.061. CORPORATION'S ORGANIZATION NOT RESTRICTED. Except as provided by this subtitle, no proceeding, notice, or approval is required for the organization of a corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.062. BOARD OF DIRECTORS. (a) All of the powers of a corporation are vested in a board of directors consisting of three or more directors appointed by the governing body of the corporation's authorizing unit.

(b) A director serves for a term of not more than six years.

(c) The governing body of the corporation's authorizing unit may remove a director for cause or at will.

(d) A director serves without compensation, but is entitled to reimbursement for actual expenses incurred in the performance of the director's duties under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.063. ORGANIZATIONAL MEETING. (a) After issuance of the certificate evidencing the filing of the certificate of formation, the board of directors named in the certificate of formation shall hold an organizational meeting in this state to adopt bylaws and elect officers and for other purposes.

(b) Not later than the third day before the date of the meeting, the organizers who call the meeting shall give notice by mail of the time and place of the meeting to each director named in the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.064. BYLAWS. (a) A corporation may adopt and amend bylaws for the administration and regulation of the corporation's affairs.

(b) The board of directors shall adopt a corporation's initial bylaws.

(c) The bylaws and each amendment of the bylaws must:

(1) be consistent with state law and with the certificate of formation of the corporation; and

(2) be approved by resolution of the governing body of the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.065. OFFICERS. (a) A corporation has the following officers:

(1) a president;

(2) at least one vice president;

(3) a secretary;

(4) a treasurer; and

(5) other officers or assistant officers considered necessary.

(b) An officer of the corporation is elected or appointed at the time, in the manner, and for the term prescribed by the certificate of formation or bylaws, except that an officer's term may not exceed three years. In the absence of provisions in the

certificate of formation or the bylaws prescribing the selection or terms of officers, the board of directors shall annually elect or appoint officers.

(c) A person may hold more than one office, except that the same person may not hold the offices of president and secretary.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.066. INDEMNIFICATION. (a) In this section, "director or officer" includes a former director or officer.

(b) Except as provided by Subsection (d), a corporation may indemnify a director or officer of the corporation for necessary expenses and costs, including attorney's fees, actually incurred by the director or officer in connection with a claim asserted against the director or officer, by action in court or another forum, by reason of the director's or officer's being or having been a director or officer of the corporation.

(c) Except as provided by Subsection (d), if a corporation has not fully indemnified a director or officer under Subsection (b), the court in a proceeding in which a claim is asserted against the director or officer or a court having jurisdiction over an action brought by the director or officer on a claim for indemnity may assess indemnity against the corporation or the corporation's receiver or trustee. The assessment must equal the amount that the director or officer paid to satisfy the judgment or compromise the claim, including attorney's fees and not including any amount paid to the corporation, to the extent that:

(1) the amount paid was actually and necessarily incurred; and

(2) the court considers the amount paid reasonable and equitable.

(d) A corporation may not indemnify a director or officer for a matter in which the director or officer is guilty of negligence or misconduct. A court may assess indemnity against the corporation only if the court finds that the director or officer was not guilty of negligence or misconduct in the matter for which indemnity is sought.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01,

eff. April 1, 2009.

Sec. 501.067. INSURANCE AND BENEFITS. (a) Notwithstanding any law to the contrary and with the consent of the corporation's authorizing unit, a corporation may obtain:

(1) health benefits coverage, liability coverage, workers' compensation coverage, and property coverage under the authorizing unit's insurance policies, through self-funded coverage, or under coverage provided under an interlocal agreement with a political subdivision; or

(2) retirement benefits under a retirement program the authorizing unit participates in or operates.

(b) Health benefits coverage may be extended to the corporation's directors and employees, and to the dependents of the directors and employees.

(c) Workers' compensation benefits may be extended to the corporation's directors, employees, and volunteers.

(d) Liability coverage may be extended to protect the corporation and the corporation's directors and employees.

(e) Retirement benefits may be extended to the corporation's employees.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.068. BOARD MEETINGS; NOTICE OF MEETING. (a) A board of directors may hold a regular meeting in this state with or without notice as prescribed by the corporation's bylaws.

(b) A board of directors may hold a special meeting with notice as prescribed by the corporation's bylaws.

(c) A director's attendance at a board meeting constitutes a waiver of notice of the meeting, unless the director attends the meeting for the express purpose of objecting to the transaction of any business at the meeting because the meeting has not been lawfully called or convened.

(d) Unless required by the corporation's bylaws, notice or waiver of notice of a board meeting is not required to specify the business to be transacted at the meeting or the purpose of the

meeting.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.069. WAIVER OF NOTICE. If a notice is required to be given to a director of a corporation under this subtitle or the corporation's certificate of formation or bylaws, a written waiver of the notice signed by the person entitled to the notice is equivalent to giving the required notice. The waiver may be given before or after the time that would have been stated in the notice.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.070. ACTION OF BOARD; QUORUM. (a) A quorum of a board of directors is the lesser of:

(1) a majority of the number of directors:

(A) established by the corporation's bylaws; or

(B) stated in the corporation's certificate of formation, if the bylaws do not establish the number of directors; or

(2) the number of directors, not less than three, established as a quorum by the certificate of formation or bylaws.

(b) The act of a majority of the directors present at a meeting at which a quorum is present is an act of the board of directors, unless the act of a larger number is required by the certificate of formation or bylaws of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.071. ACTION WITHOUT MEETING. (a) An action that may be taken at a meeting of a board of directors, including an action required by this subtitle to be taken at a meeting, may be taken without a meeting if each director signs a written consent providing the action to be taken.

(b) The consent has the same effect as a unanimous vote and may be stated as such in a document filed with the secretary of state

under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.072. OPEN MEETINGS AND PUBLIC INFORMATION. A board of directors is subject to the open meetings law, Chapter 551, Government Code, and the public information law, Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.073. SUPERVISION BY AUTHORIZING UNIT. (a) The corporation's authorizing unit will approve all programs and expenditures of a corporation and annually review any financial statements of the corporation.

(b) A corporation's authorizing unit is entitled to access to the corporation's books and records at all times.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.074. PURCHASING. A corporation may use the reverse auction procedure defined by Section 2155.062(d), Government Code, for purchasing.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.075. EXEMPTION FROM TAXATION. (a) The activities of a corporation affect all the residents of the corporation's authorizing unit by the corporation's assuming to a material extent what otherwise might be an obligation or duty of the authorizing unit, and therefore the corporation is an institution of purely public charity within the tax exemption of Section 2, Article VIII, Texas Constitution.

(b) A corporation is exempt from the tax imposed by Chapter 171, Tax Code, only if the corporation is exempted by that chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER C. AUTHORIZED PROJECTS

Sec. 501.101. PROJECTS RELATED TO CREATION OR RETENTION OF PRIMARY JOBS. In this subtitle, "project" includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are:

(1) for the creation or retention of primary jobs; and

(2) found by the board of directors to be required or suitable for the development, retention, or expansion of:

(A) manufacturing and industrial facilities;

(B) research and development facilities;

(C) military facilities, including closed or realigned military bases;

(D) transportation facilities, including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, related infrastructure located on or adjacent to an airport or railport facility, marine ports, inland ports, mass commuting facilities, and parking facilities;

(E) sewage or solid waste disposal facilities;

(F) recycling facilities;

(G) air or water pollution control facilities;

(H) facilities for furnishing water to the public;

(I) distribution centers;

(J) small warehouse facilities capable of serving as decentralized storage and distribution centers;

(K) primary job training facilities for use by institutions of higher education; or

(L) regional or national corporate headquarters facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.012(a), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 150 (S.B. 2052), Sec. 1, eff. September 1, 2009.

Sec. 501.102. PROJECTS RELATED TO CERTAIN JOB TRAINING. In this subtitle, "project" includes job training required or suitable for the promotion of development and expansion of business enterprises and other enterprises described by this subtitle, as provided by Section 501.162.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.103. CERTAIN INFRASTRUCTURE IMPROVEMENT PROJECTS. In this subtitle, "project" includes expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to:

(1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements;

(2) telecommunications and Internet improvements; or

(3) beach remediation along the Gulf of Mexico.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.104. PROJECTS RELATED TO CERTAIN MILITARY BASES OR MISSIONS. In this subtitle, "project" includes the infrastructure, improvements, land acquisition, buildings, or expenditures that:

(1) are for the creation or retention of primary jobs or jobs that are included in North American Industry Classification System (NAICS) sector number 926120, Regulation and Administration of Transportation Programs, for the corresponding index entry for Coast Guard (except the Coast Guard Academy); and

(2) are found by the board of directors to be required or suitable for:

(A) promoting or supporting a military base in active use to prevent the possible future closure or realignment of the

base;

(B) attracting new military missions to a military base in active use; or

(C) redeveloping a military base that has been closed or realigned, including a military base closed or realigned according to the recommendation of the Defense Base Closure and Realignment Commission under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.105. CAREER CENTER PROJECTS OUTSIDE OF JUNIOR COLLEGE DISTRICT. In this subtitle, "project" includes the land, buildings, equipment, facilities, improvements, and expenditures found by the board of directors to be required or suitable for use for a career center, if the area to be benefited by the career center is not located in the taxing jurisdiction of a junior college district.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.106. AIRPORT FACILITIES OR OTHER PROJECTS BY CORPORATIONS AUTHORIZED BY CERTAIN BORDER MUNICIPALITIES. (a) This section applies only to a corporation authorized to be created by a municipality, any part of which is located within 25 miles of an international border.

(b) For a corporation to which this section applies, in this subtitle, "project" includes the land, buildings, facilities, infrastructure, and improvements that:

(1) the corporation's board of directors finds are required or suitable for the development or promotion of new or expanded business enterprises through transportation facilities including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, marine ports, inland ports, mass commuting facilities, parking facilities, and related infrastructure located on or adjacent to an airport or railport facility; or

(2) are undertaken by the corporation if the municipality

that authorized the creation of the corporation has, at the time the corporation approves the project as provided by this subtitle:

(A) a population of less than 50,000; or

(B) an average rate of unemployment that is greater than the state average rate of unemployment during the most recent 12-month period for which data is available that precedes the date the project is approved.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 795 (H.B. 2772), Sec. 1, eff. June 17, 2015.

Sec. 501.107. INFRASTRUCTURE PROJECTS BY CORPORATIONS AUTHORIZED BY MUNICIPALITIES IN CERTAIN BORDER COUNTIES. (a) This section applies only to a corporation that:

(1) is authorized to be created by a municipality wholly or partly located in a county that:

(A) is bordered by the Rio Grande;

(B) has a population of at least 500,000; and

(C) has wholly or partly within its boundaries at least four municipalities each of which has a population of at least 25,000; and

(2) does not support a project, as defined by this subchapter, with sales and use tax revenue collected under Chapter 504 or 505.

(b) For a corporation to which this section applies, in this subtitle, "project" includes expenditures found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, including airports, ports, and sewer or solid waste disposal facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER D. CORPORATE POWERS AND LIMITATIONS RELATING TO PROJECTS

Sec. 501.151. AUTHORITY TO FINANCE PROJECT. A corporation is a constituted authority for the purpose of financing one or more

projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.152. DEFINITION OF COST WITH RESPECT TO PROJECT. In this subtitle, "cost," with respect to a project, means the cost of the acquisition, cleanup, construction, reconstruction, improvement, or expansion of a project, including:

(1) the cost of acquiring all land, rights-of-way, property rights, easements, and interests;

(2) the cost of all machinery and equipment;

(3) financing charges;

(4) the cost of inventory, raw materials, and other supplies;

(5) research and development costs;

(6) interest accruing before and during construction and until the first anniversary of the date the construction is completed, regardless of whether capitalized;

(7) necessary reserve funds;

(8) the cost of estimates, including estimates of cost and revenue;

(9) the cost of engineering or legal services;

(10) the cost of plans, specifications, or surveys;

(11) other expenses necessary or incident to determining the feasibility and practicability of acquiring, cleaning, constructing, reconstructing, improving, and expanding the project;

(12) administrative expenses; and

(13) other expenditures necessary or incident to:

(A) acquiring, cleaning, constructing, reconstructing, improving, and expanding the project;

(B) placing the project in operation; and

(C) financing or refinancing the project, including refunding any outstanding obligations, mortgages, or advances issued, made, or given by a person for a cost described by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.153. LEASE OR SALE OF PROJECT. (a) A corporation may:

(1) lease all or any part of a project to a user, for the rental and on the terms that the corporation's board of directors considers advisable and not in conflict with this subtitle; or

(2) sell, by installment payments or otherwise, and convey all or any part of a project to a user for the purchase price and on the terms the corporation's board of directors considers advisable and not in conflict with this subtitle.

(b) A corporation may grant a lessee an option to purchase all or any part of a project when all bonds of the corporation delivered to provide those facilities have been paid or provision has been made for the bonds' final payment. This subsection is procedurally exclusive for authority to convey or grant an option to purchase all or part of a project, and reference to another law is not required.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.154. CONVEYANCE OF PROPERTY TO INSTITUTION OF HIGHER EDUCATION. With respect to a project, a corporation may donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property, fixtures, furnishings, equipment, or personal property to an institution of higher education for a legal purpose of the institution, on the terms the corporation's board of directors considers advisable and not in conflict with this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.155. LOAN TO FINANCE PROJECT. (a) A corporation may make a secured or unsecured loan to a user for the purpose of providing temporary or permanent financing or refinancing of all or part of the cost of a project, including the refunding of an outstanding obligation, mortgage, or advance issued, made, or given by a person for the cost of a project.

(b) For a loan made under this section, a corporation may charge and collect interest on the terms the corporation's board of directors considers advisable and not in conflict with this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.156. AGREEMENT MUST BENEFIT CORPORATION. An agreement relating to a project must be for the benefit of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.157. DEFAULT ON AGREEMENT; ENFORCEMENT. An agreement relating to a project must provide that if a default occurs in the payment of the principal of or the interest or premium on the bonds or in the performance of any agreement contained in a proceeding, mortgage, or instrument, the payment or performance may be enforced by:

(1) mandamus; or

(2) the appointment of a receiver in equity with the power to:

(A) charge and collect rents, purchase price payments, and loan payments; and

(B) apply the revenue from the project in accordance with the resolution, mortgage, or instrument.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.158. PERFORMANCE AGREEMENTS. (a) A corporation may not provide a direct incentive to or make an expenditure on behalf of a business enterprise under a project as defined by Subchapter C of this chapter or by Subchapter D, Chapter 505, unless the corporation enters into a performance agreement with the business enterprise.

(b) A performance agreement between a corporation and business enterprise must:

(1) provide, at a minimum, for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement; and

(2) specify the terms under which repayment must be made if

the business enterprise does not meet the performance requirements specified in the agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.159. POWERS CONCERNING PROJECTS; JURISDICTION. (a) A corporation may acquire, by construction, devise, purchase, gift, lease, or otherwise, or any one or more of those methods and may construct, improve, maintain, equip, and furnish one or more projects undertaken by another corporation or located within this state, including within the coastal waters of this state, and within or partially within the limits of the authorizing unit of the corporation or within the limits of another unit, if the governing body of the other corporation or the unit requests the corporation to exercise its powers within that unit.

(b) A corporation may recover the costs of an investment under Subsection (a) from a unit or another corporation under a contract with a limited or unlimited duration.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.160. OWNING OR OPERATING PROJECT AS BUSINESS. (a) Except as provided by Subsection (d), a corporation may not own or operate a project as a business other than:

(1) as a lessor, seller, or lender; or

(2) according to the requirements of any trust agreement securing the credit transaction.

(b) The user under a lease, sale, or loan agreement relating to a project is considered the owner of the project for purposes of ad valorem taxes, sales and use taxes, or any other taxes imposed by this state or a political subdivision of this state.

(c) Purchasing and holding a mortgage, deed of trust, or other security interest or contracting for the servicing of a mortgage, deed of trust, or other security interest is not considered the operation of a project.

(d) A corporation has all the powers necessary to own and operate a project as a business if:

(1) the project is a military installation or military facility that has been closed or realigned, including a military installation or facility closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note), as amended; or

(2) the project is authorized under Section 501.106.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 795 (H.B. 2772), Sec. 2, eff. June 17, 2015.

Sec. 501.161. CERTAIN ECONOMIC INCENTIVES PROHIBITED. (a) In this section, "related party" means a person who owns at least 80 percent of the business enterprise to which the sales and use tax would be rebated as part of an economic incentive.

(b) Notwithstanding any other provision of this subtitle, a corporation may not offer to provide an economic incentive for a business enterprise whose business consists primarily of purchasing taxable items using a resale certificate and then reselling those items to a related party.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.162. USE OF TAX REVENUE FOR JOB TRAINING. A corporation may spend tax revenue received under this subtitle for job training offered through a business enterprise only if the business enterprise has committed in writing to:

(1) create new jobs that pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area; or

(2) increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.163. USE OF TAX REVENUE FOR JOB-RELATED SKILLS TRAINING BY CERTAIN CORPORATIONS. (a) This section applies only to a corporation the creation of which was authorized by a municipality that:

(1) has a population of 10,000 or more;

(2) is located in a county that borders:

(A) the Gulf of Mexico or the Gulf Intracoastal Waterway; or

(B) the United Mexican States and in which four municipalities with a population of 70,000 or more are located; and

(3) has, or is included in a metropolitan statistical area of this state that has, an unemployment rate that averaged at least two percent above the state average for the most recent two consecutive years for which statistics are available.

(b) A corporation may spend tax revenue received under this subtitle for job training that consists of:

(1) providing job-related life skills sufficient to enable an unemployed individual to obtain employment; and

(2) providing job training skills sufficient to enable an unemployed individual to obtain employment.

(c) A corporation to which this section applies may contract with any person to provide the job training authorized under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1283 (H.B. 1967), Sec. 1, eff. June 14, 2013.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 648 (S.B. 1748), Sec. 1, eff. June 12, 2017.

SUBCHAPTER E. CORPORATE POWERS AND LIMITATIONS RELATING TO BONDS

Sec. 501.201. AUTHORITY TO ISSUE BONDS. (a) A corporation may issue bonds to defray all or part of the cost of a project, regardless of whether the bonds are wholly or partly exempt from federal income taxation.

(b) Except as limited by this subtitle or rules and guidelines of the economic development office, a corporation has full authority

with respect to bonds.

(c) Except as otherwise provided by this subtitle, a corporation may issue bonds under this subtitle without obtaining the consent or approval of any department, division, or agency of this state, other than the attorney general under Chapter 1202, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.202. TERMS. Bonds issued by a corporation must be dated and must mature in not more than 40 years.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.203. SECURITIES COMMISSIONER PERMIT TO SELL SECURITIES REQUIRED. A corporation may not sell or offer for sale bonds or other securities until the securities commissioner grants a permit authorizing the corporation to offer and sell the bonds or other securities under the registration provisions of The Securities Act (Title 12, Government Code), except as exempted from registration by rule or order of the State Securities Board. Appeal from an adverse decision of the securities commissioner or the State Securities Board is under the administrative procedure law, Chapter 2001, Government Code. The substantial evidence rule applies in an appeal under this subsection.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.37, eff. January 1, 2022.

Sec. 501.204. AUTHORIZING UNIT'S APPROVAL OF BONDS. (a) A corporation may not deliver bonds, including refunding bonds, unless the governing body of the corporation's authorizing unit adopts a resolution, not earlier than the 60th day before the date the bonds

are delivered, specifically approving the corporation's resolution providing for the issuance of the bonds.

(b) If the corporation is authorized to be created by a county alliance, the resolution required by Subsection (a) must be adopted by the commissioners courts of at least three-fifths of the members of the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.205. BOND COUNSEL AND FINANCIAL ADVISORS. Bond counsel and financial advisors participating in a bond issue must be mutually acceptable to the corporation and the user.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.206. MONEY USED TO PAY BONDS. The principal of and interest on bonds issued by a corporation are payable only from the money provided for that payment and from the revenue of the project or projects for which the bonds were authorized.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.207. BONDS NOT DEBT OF STATE OR AUTHORIZING UNIT. (a) Bonds issued under this subtitle are not a debt or pledge of the faith and credit of this state, the authorizing unit of the corporation issuing the bonds, or any other political corporation, subdivision, or agency of this state.

(b) The revenue bonds issued under this subtitle must contain on their face a statement to the effect that:

(1) neither this state, the authorizing unit of the corporation issuing the bonds, nor any other political corporation, subdivision, or agency of this state is obligated to pay the principal of or the interest on the bonds; and

(2) neither the faith and credit nor the taxing power of this state, the authorizing unit of the corporation issuing the

bonds, or any other political corporation, subdivision, or agency of this state is pledged to the payment of the principal of or the interest on the bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.208. BOND SECURITY; DEFAULT. (a) The principal of and interest on any bonds issued by a corporation shall be secured by a pledge of the revenues and receipts derived by the corporation from the lease or sale of the project financed by the bonds or from the loan made by the corporation with respect to the project financed or refinanced by the bonds.

(b) As security for the payment of the principal of and interest on any bonds issued by a corporation and any agreements made in connection with the issuance of bonds, the corporation may:

(1) mortgage and pledge any or all of the corporation's projects or any part of a project, including the project financed or refinanced and any enlargements of and additions to the project, owned before or acquired after the time of the mortgage or pledge; and

(2) assign any mortgage and repledge any security conveyed to the corporation to secure any loan made by the corporation, and pledge the revenues and receipts from the assigned mortgage or security.

(c) The resolution authorizing the issuance of bonds and any mortgage covering all or part of the project financed may include any agreement or provision that the board of directors considers advisable and not in conflict with this subtitle and that relates to:

(1) the maintenance of the project covered by the bonds or mortgage;

(2) the fixing and collection of rents;

(3) purchase price payments;

(4) loan payments;

(5) the creation and maintenance of special funds from those revenues; or

(6) the rights and remedies available in the event of a default.

(d) A mortgage to secure bonds may also provide that, in the

event of a default in the payment of the bonds or a violation of another agreement contained in the mortgage, the mortgage may be foreclosed and the mortgaged property may be sold in any manner permitted by law. The mortgage may provide that a trustee under the mortgage or the holder of any of the bonds secured by the mortgage may purchase property at a foreclosure sale if the trustee or holder is the highest bidder.

(e) A pledge, agreement, or mortgage made for the benefit or security of any of the corporation's bonds continues in effect until the principal of and interest on the bonds benefited or secured by the pledge, agreement, or mortgage have been fully paid.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.209. TRUST AGREEMENT. (a) Bonds issued under this subtitle may be secured by a trust agreement between the corporation and a trust company or bank having the powers of a trust company. The trust company or bank may be located in or outside of this state.

(b) The trust agreement may:

(1) pledge or assign the lease, sale, or loan revenues to be received with respect to a project from a lessee, purchaser, or borrower for the payment of the principal of and interest and any premium on the bonds as the bonds become due and payable;

(2) provide for the creation and maintenance of reserves for a purpose described by Subdivision (1);

(3) state the rights and remedies of the bondholders and the trustee;

(4) restrict the individual right of action by bondholders in a manner that is customary in trust agreements or trust indentures securing bonds and debentures of private corporations; and

(5) include any additional provision that the corporation considers reasonable and proper for the security of the bondholders.

(c) The trust agreement or a resolution approving the issuance of the bonds may provide for the protection and enforcement of the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing the duties relating to:

(1) the acquisition of property and the construction,

improvement, maintenance, repair, operation, and insurance of the project in connection with which the bonds are authorized; and

(2) the custody, protection, and application of all money.

(d) A bank or trust company incorporated under the laws of this state that acts as depository of the bond proceeds or of revenues may furnish indemnifying bonds or pledge securities as required by the corporation.

(e) All expenses incurred in carrying out the trust agreement may be treated as a part of the cost of operating the project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.210. FINANCIAL ASSURANCE OR RESPONSIBILITY REQUIREMENTS FOR CERTAIN PROJECTS. (a) The resolution or mortgage described by Section 501.208(c) may contain any agreement or provision for satisfying the financial assurance or responsibility requirements applicable to a project for which a permit is required under Chapter 361, Health and Safety Code, or Chapter 27, Water Code, including a requirement relating to construction, proper operation, liability coverage, emergency response capability, well plugging, closure, and post-closure care.

(b) Evidence of the passage of a resolution by a governing body approving or agreeing to approve the issuance of bonds for the purpose of satisfying the financial assurance or responsibility requirements applicable to the project is an adequate demonstration that sufficient financial resources will be available to comply with all existing financial assurance or responsibility requirements.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.211. USE OF BOND PROCEEDS. (a) The proceeds of the bonds of each issue shall be:

(1) used to pay or make a loan in the amount of all or part of the cost of the project or projects for which the bonds were authorized; and

(2) disbursed in the manner and under any restrictions provided in the resolution authorizing the issuance of the bonds or

in any trust agreement securing the bonds.

(b) Bond proceeds may be used to:

(1) pay all costs incurred in issuing the bonds;

(2) pay interest on the bonds for any time determined by the board of directors of the corporation issuing the bonds; and

(3) establish reserve funds and sinking funds for the bonds.

(c) If the proceeds of the bonds of any series issued for a project exceed the cost of the project for which the bonds were issued, the surplus shall be:

(1) deposited to the credit of the sinking fund for the bonds; or

(2) used to purchase bonds in the open market.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.212. INTERIM BONDS. (a) Before the preparation of definitive bonds, the corporation may, under like restrictions, issue interim bonds that may be exchanged for definitive bonds when the definitive bonds are executed and available for delivery.

(b) The corporation may issue interim bonds with or without coupons.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.213. REFUNDING BONDS. (a) A corporation may provide by resolution for the issuance of refunding bonds:

(1) to refund outstanding bonds issued under this subtitle for a project, including the payment of any redemption premium on the bonds and the interest accrued or to accrue to the date of redemption; and

(2) if considered advisable by the corporation, additionally to finance improvements, extensions, or enlargements to the project for which the bonds being refunded were issued or for another project.

(b) The provisions of this subtitle relating to other bonds govern the issuance, maturities, and other details of the refunding

bonds, the rights of the holders of the refunding bonds, and the rights, duties, and obligations of the corporation with respect to the same to the extent those provisions may be applicable.

(c) The corporation may issue the refunding bonds in exchange for outstanding bonds or may sell the refunding bonds and use the proceeds to redeem outstanding bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.214. SALE OR EXCHANGE OF BONDS. With respect to a project, a corporation may:

(1) sell bonds; or

(2) exchange bonds for property, labor, services, material, or equipment comprising a project or incidental to the acquisition of a project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER F. ADMINISTRATION BY ECONOMIC DEVELOPMENT OFFICE

Sec. 501.251. STATE STANDARDS FOR PROJECT ELIGIBILITY. The economic development office shall adopt rules providing minimum standards for project eligibility.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.252. STATE STANDARDS AND GUIDELINES FOR LEASE, SALE, OR LOAN AGREEMENTS. (a) The economic development office shall adopt rules:

(1) providing minimum standards for lease, sale, and loan agreements entered into under this subtitle; and

(2) providing guidelines with respect to the business experience, financial resources, and responsibilities of the lessee, purchaser, or borrower under a lease, sale, or loan agreement entered into under this subtitle.

(b) The economic development office may adopt rules governing

the terms of a loan made by a corporation to a bank or other lending institution the proceeds of which are reloaned as permanent or temporary financing of a project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.253. RULES FOR SMALL BUSINESS PROGRAMS. The economic development office shall adopt rules governing programs for small businesses receiving loans guaranteed wholly or partly by the United States Small Business Administration or another federal agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.254. FILING OF RULES AND GUIDELINES WITH SECRETARY OF STATE. Rules and guidelines adopted by the economic development office and amendments to the rules and guidelines take effect only after the filing of the rules and guidelines or amendments with the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.255. APPROVAL OF LEASE, SALE, OR LOAN AGREEMENT. (a) A lease, sale, or loan agreement entered into under this subtitle must be approved by the economic development office. The economic development office may not approve an agreement unless the office affirmatively finds that the project sought to be financed furthers the public purposes of this subtitle.

(b) The corporation may appeal an adverse ruling or decision of the economic development office under Subsection (a) to a district court of Travis County. The substantial evidence rule applies in an appeal under this subsection.

(c) A corporation:

(1) may enter into a lease, sale, or loan agreement under this subtitle without obtaining the consent or approval of any department, division, or agency of this state except as otherwise

provided by this subtitle; and

(2) has full authority with respect to a lease, sale, or loan agreement, except as limited by this subtitle or by rules and guidelines of the economic development office.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.256. APPROVAL OF BONDS BY ECONOMIC DEVELOPMENT OFFICE. (a) A corporation may submit a transcript of proceedings in connection with the issuance of bonds to the economic development office and request that the office approve the bonds. A corporation shall include a nonrefundable filing fee with the request. The office shall set the amount of the fee at a reasonable amount that is not less than $500 or more than $25,000.

(b) If the economic development office refuses to approve the bond issue solely on the basis of law, the corporation may seek a writ of mandamus from the Texas Supreme Court, and for this purpose the executive director of the economic development office is considered a state officer under Section 22.002, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.257. FILING OF FEE SCHEDULE AND BOND PROCEDURES. The economic development office by rule shall require a corporation to file fee schedules and bond procedures.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.258. DELEGATION OF AUTHORITY. The economic development office may delegate to the executive director of the office the authority to approve a lease, sale, or loan agreement made under this subtitle or bonds issued by a corporation or any documents submitted as provided in this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01,

eff. April 1, 2009.

SUBCHAPTER G. AMENDMENT OR RESTATEMENT OF CERTIFICATE OF FORMATION

Sec. 501.301. AMENDMENT BY BOARD OF DIRECTORS. (a) The board of directors of a corporation at any time may file with the governing body of the corporation's authorizing unit a written application requesting that the authorizing unit approve an amendment to the certificate of formation.

(b) The application must specify the proposed amendment. The board of directors shall amend the certificate of formation in accordance with this subchapter if the governing body of the authorizing unit by resolution:

(1) determines that it is advisable to adopt the amendment;

(2) authorizes the adoption of the amendment; and

(3) approves the form of the amendment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.302. AMENDMENT BY UNIT. The governing body of the authorizing unit of a corporation, at the unit's sole discretion, may in accordance with this subchapter amend the corporation's certificate of formation at any time by:

(1) adopting the amendment by resolution; and

(2) delivering the certificate of amendment to the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.303. AMENDMENT TO COUNTY ALLIANCE CORPORATION'S CERTIFICATE OF FORMATION. An amendment to the certificate of formation of a county alliance corporation may not be adopted unless approved by the governing body of each member of the county alliance that authorized the creation of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01,

eff. April 1, 2009.

Sec. 501.304. CONTENTS OF CERTIFICATE OF AMENDMENT. The certificate of amendment must:

(1) state the name of the corporation;

(2) if the amendment alters a provision of the certificate of formation, identify by reference or describe the altered provision and include the provision's text as amended;

(3) if the amendment is an addition to the certificate of formation, state that fact and include the text of each provision added; and

(4) state that the amendment was adopted or approved by the governing body of the authorizing unit and give the date the governing body adopted or approved the amendment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.305. EXECUTION AND VERIFICATION OF CERTIFICATE OF AMENDMENT. (a) A certificate of amendment shall be executed:

(1) on behalf of the corporation by the president or a vice president of the corporation and by the secretary or an assistant secretary of the corporation; or

(2) by the presiding officer of the governing body of the corporation's authorizing unit and by the secretary or clerk of the governing body.

(b) One of the officers who signs the certificate of amendment shall verify the certificate of amendment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.306. DELIVERY AND FILING OF CERTIFICATE OF AMENDMENT. (a) Three originals of the certificate of amendment shall be delivered to the secretary of state.

(b) If the secretary of state determines that the certificate of amendment conforms to this subchapter and on receipt of a $25 fee, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the certificate of amendment;

(2) file one of the original certificates of amendment in the secretary of state's office;

(3) issue two certificates evidencing the filing of the certificate of amendment;

(4) attach to each certificate evidencing the filing of the certificate of amendment; and

(5) deliver a certificate evidencing the filing of the certificate of amendment and the attached certificate of amendment to:

(A) the corporation or the corporation's representative; and

(B) the governing body of the corporation's authorizing unit.

(c) On the issuance of the certificate evidencing the filing of the certificate of amendment, the amendment becomes effective and the certificate of formation is amended accordingly.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.307. SUITS OR RIGHTS NOT AFFECTED. (a) An amendment to a corporation's certificate of formation does not affect:

(1) any existing cause of action in favor of or against the corporation;

(2) any pending suit to which the corporation is a party; or

(3) the existing rights of any person.

(b) If a corporation's name is changed by amendment to the certificate of formation, a suit brought by or against the corporation under its former name does not abate for that reason.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.308. RESTATED CERTIFICATE OF FORMATION. A corporation may authorize, execute, and file a restated certificate of formation by following the procedure to amend the certificate of formation

provided by this subchapter, including obtaining the approval of the governing body of the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.309. RESTATEMENT WITHOUT ADDITIONAL AMENDMENT. (a) A corporation may, without making any additional amendment, restate the entire text of the certificate of formation as amended or supplemented by all certificates evidencing the filing of a certificate of amendment previously issued by the secretary of state.

(b) The introductory paragraph of a restatement under this section must contain a statement that the restatement:

(1) accurately copies the certificate of formation and all amendments to the certificate of formation that are in effect; and

(2) does not contain any change to the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.310. RESTATEMENT WITH ADDITIONAL AMENDMENT. (a) A corporation may:

(1) restate the entire text of the certificate of formation as amended or supplemented by all certificates evidencing the filing of a certificate of amendment previously issued by the secretary of state; and

(2) as part of the restatement, make additional amendments to the certificate of formation.

(b) A restatement under this section must:

(1) state that each additional amendment to the certificate of formation conforms to this subtitle;

(2) contain any statement required by this subtitle for the certificate of amendment, except that the full text of an additional amendment is not required to be set out other than in the restatement itself;

(3) contain a statement that:

(A) the restatement is an accurate copy of the certificate of formation and all amendments to the certificate of

formation that are in effect and all additional amendments made to the certificate of formation; and

(B) the restatement does not contain any other change to the certificate of formation; and

(4) restate the text of the entire certificate of formation as amended or supplemented by all certificates evidencing the filing of a certificate of amendment previously issued by the secretary of state and as additionally amended by the restated certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.311. CHANGE IN CERTAIN INFORMATION NOT AMENDMENT. For purposes of restating the certificate of formation under Sections 501.309 and 501.310, substituting the current number, names, and addresses of the directors for similar information of the initial board of directors or omitting the name and address of each organizer is not an amendment to or change in the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.312. EXECUTION AND VERIFICATION OF RESTATED CERTIFICATE OF FORMATION. (a) Originals of the restated certificate of formation shall be executed on behalf of the corporation by the president or a vice president of the corporation and by the secretary or an assistant secretary of the corporation.

(b) One of the officers who signs the restated certificate of formation shall verify the restated certificate.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.313. DELIVERY AND FILING OF RESTATED CERTIFICATE OF FORMATION. (a) Three originals of the restated certificate of formation shall be delivered to the secretary of state.

(b) If the secretary of state determines that the restated

certificate of formation conforms to law and on receipt of a $25 fee, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the restated certificate of formation;

(2) file one of the original restated certificates of formation in the secretary of state's office;

(3) issue two certificates evidencing the filing of the restated certificate of formation;

(4) attach to each certificate evidencing the filing of the restated certificate of formation an original of the restated certificate of formation; and

(5) deliver a certificate evidencing the filing of the restated certificate of formation and the attached restated certificate of formation to:

(A) the corporation or the corporation's representative; and

(B) the governing body of:

(i) the corporation's authorizing unit; or

(ii) any county in the county alliance that authorized the creation of the corporation, for a county alliance corporation.

(c) The governing body of a county to which a certificate evidencing the filing of the restated certificate of formation and the attached restated certificate of formation are delivered under Subsection (b)(5)(B)(ii) shall provide photocopies of the certificate evidencing the filing of the restated certificate of formation and the attached restated certificate of formation to each other member of the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.314. EFFECT OF ISSUANCE OF CERTIFICATE EVIDENCING FILING OF RESTATED CERTIFICATE OF FORMATION. On the issuance of the certificate evidencing the filing of the restated certificate of formation by the secretary of state:

(1) the original certificate of formation and all amendments to the original certificate of formation are superseded; and

(2) the restated certificate of formation becomes the certificate of formation of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER H. REGISTERED OFFICE AND AGENT; SERVICE OF PROCESS

Sec. 501.351. REGISTERED OFFICE AND AGENT. (a) A corporation shall continuously maintain in this state a registered office and registered agent.

(b) A corporation's registered office may, but is not required to be, the same as the corporation's principal office.

(c) A corporation's registered agent may be:

(1) an individual who is a resident of this state and whose business office is the same as the corporation's registered office; or

(2) a domestic or foreign for-profit or nonprofit corporation that:

(A) is authorized to transact business or to conduct affairs in this state; and

(B) has a principal or business office that is the same as the corporation's registered office.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.352. CHANGE OF REGISTERED OFFICE OR AGENT. (a) A corporation may change its registered office or registered agent by filing in the office of the secretary of state a statement declaring:

(1) the name of the corporation;

(2) the postal mailing address of the corporation's registered office at the time of filing;

(3) the postal address to which the registered office is to be changed, if the postal mailing address of the corporation's registered office is to be changed;

(4) the name of the corporation's registered agent at the time of filing;

(5) the name of the corporation's successor registered agent, if the corporation's registered agent is to be changed;

(6) that the postal mailing address of the corporation's registered office and the postal mailing address of the business office of the corporation's registered agent as changed will be the same; and

(7) that the change was authorized by:

(A) the corporation's board of directors; or

(B) an officer of the corporation authorized by the corporation's board of directors to make the change.

(b) Two originals of the statement shall be:

(1) executed on behalf of the corporation by the president or a vice president of the corporation;

(2) verified by the executing officer; and

(3) delivered to the secretary of state.

(c) If the secretary of state determines that the statement conforms to this section and on receipt of a $25 fee, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the statement;

(2) file one of the original statements in the secretary of state's office; and

(3) return the other original statement to the corporation or the corporation's representative.

(d) A change made by the statement becomes effective on the filing of the statement by the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.353. RESIGNATION OF REGISTERED AGENT. (a) A corporation's registered agent may resign by:

(1) giving written notice to the corporation at the corporation's last known address; and

(2) giving three originals of the written notice to the secretary of state not later than the 10th day after the date the notice is mailed or delivered to the corporation.

(b) The notice of resignation must include:

(1) the corporation's last known address;

(2) a statement that written notice of the resignation was given to the corporation; and

(3) the date on which the written notice of resignation was given to the corporation.

(c) If the secretary of state determines that the notice of resignation conforms to this section, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the notice of resignation;

(2) file one of the original notices of resignation in the secretary of state's office;

(3) return one original notice of resignation to the resigning registered agent; and

(4) return one original notice of resignation to the corporation at the corporation's last known address shown in the notice.

(d) The appointment of a registered agent terminates on the 31st day after the date the secretary of state receives the notice of resignation that complies with this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.354. AGENTS FOR SERVICE. (a) The president, each vice president, and the registered agent of a corporation are the corporation's agents on whom a process, notice, or demand required or permitted by law to be served on the corporation may be served.

(b) If a corporation does not appoint or maintain a registered agent in this state or if the corporation's registered agent cannot with reasonable diligence be found at the registered office, the secretary of state is an agent of the corporation on whom a process, notice, or demand described by Subsection (a) may be served.

(c) Service of a process, notice, or demand on the secretary of state is made by delivering two copies of the process, notice, or demand to the secretary of state, the deputy secretary of state, or a clerk in charge of the corporation department of the secretary of state's office. The secretary of state shall immediately forward by registered mail one copy of the process, notice, or demand to the corporation at the corporation's registered office.

(d) Service made on the secretary of state under this section is returnable not earlier than the 30th day after the date of service.

(e) The secretary of state shall keep a record of each process, notice, and demand served on the secretary of state under this subtitle and shall include in the record the time of the service and the secretary of state's action in response to the service.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER I. ALTERATION OR TERMINATION OF CORPORATION

Sec. 501.401. ALTERATION OR TERMINATION BY AUTHORIZING UNIT. (a) At any time a corporation's authorizing unit, in its sole discretion, may in accordance with this subtitle:

(1) alter the corporation's structure, organization, programs, or activities; or

(2) terminate the existence of the corporation.

(b) The authority of an authorizing unit under this section is limited only by the law of this state on the impairment of contracts entered into by the corporation.

(c) An authorizing unit may make an alteration or may terminate the corporation's existence only by a written resolution of the authorizing unit's governing body.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.402. TERMINATION OF CORPORATION ON COMPLETION OF PURPOSE. The board of directors of a corporation, with the approval by written resolution of the corporation's authorizing unit, shall terminate the corporation's existence as provided by this subtitle if the board by resolution determines that:

(1) the purposes for which the corporation was formed have been substantially fulfilled; and

(2) all bonds issued by the corporation have been fully paid.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.403. EXECUTION OF CERTIFICATE OF TERMINATION. A certificate of termination shall be executed:

(1) on behalf of the corporation by the president or a vice president of the corporation and by the secretary or an assistant secretary of the corporation; or

(2) by the presiding officer of the governing body of the corporation's authorizing unit and the secretary or clerk of the governing body.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.404. DELIVERY AND FILING OF CERTIFICATE OF TERMINATION. (a) Three originals of the certificate of termination shall be delivered to the secretary of state.

(b) If the secretary of state determines that the certificate of termination conforms to this subtitle and on receipt of a $25 fee, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the certificate of termination;

(2) file one of the original certificates of termination in the secretary of state's office;

(3) issue two certificates evidencing the filing of the certificate of termination;

(4) attach to each certificate evidencing the filing of the certificate of termination an original of the certificate of termination; and

(5) deliver a certificate evidencing the filing of the certificate of termination and the attached certificate of termination to:

(A) the representative of the terminated corporation; and

(B) the governing body of the terminated corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.405. EFFECT OF ISSUANCE OF CERTIFICATE EVIDENCING

FILING OF CERTIFICATE OF TERMINATION. The corporate existence ends on the issuance of the certificate evidencing the filing of the certificate of termination except for the purpose of:

(1) any suit or other proceeding; and

(2) appropriate corporate action by a director or officer under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.406. ASSETS ON TERMINATION. On termination the title to all funds and property owned by the corporation is transferred to the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.407. TERMINATION WITH TRANSFER OF ASSETS TO TYPE A CORPORATION. On approval of the governing bodies of each unit and corporation involved, a corporation that is not a Type A corporation may transfer all of the corporation's assets to a Type A corporation and terminate its existence as provided by this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER J. HURRICANE IKE DISASTER RELIEF

Sec. 501.451. APPLICABILITY. This subchapter applies only to a corporation the creation of which was authorized by a unit wholly or partly located in the Hurricane Ike disaster area, as defined by Section 704, Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343).

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. 3854), Sec. 1, eff. June 19, 2009.

Sec. 501.452. PROJECTS RELATED TO HURRICANE IKE DISASTER AREA.

For a corporation to which this subchapter applies, in this subtitle, "project":

(1) includes an undertaking the costs of which are eligible to be paid from the proceeds of qualified Hurricane Ike disaster area bonds under Section 704, Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343); and

(2) does not include:

(A) a qualified residential rental project, as defined by Section 142(d), Internal Revenue Code of 1986; or

(B) a project the costs of which are payable from qualified mortgage bonds, as defined by Section 143, Internal Revenue Code of 1986.

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. 3854), Sec. 1, eff. June 19, 2009.

Sec. 501.453. PROJECTS NOT ADMINISTERED BY ECONOMIC DEVELOPMENT OFFICE. A project authorized under this subchapter and bonds issued to pay all or part of the cost of a project under this subchapter are not subject to the requirements of Subchapter F.

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. 3854), Sec. 1, eff. June 19, 2009.

CHAPTER 502. PROVISIONS APPLICABLE TO TYPE A AND TYPE B CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 502.001. APPLICABILITY OF CHAPTER. This chapter applies only to Type A and Type B corporations.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER B. CORPORATE POWERS AND LIMITATIONS

Sec. 502.051. WRITTEN CONTRACT REQUIRED FOR BUSINESS RECRUITMENT OR DEVELOPMENT. (a) Except under a written contract approved by the corporation's board of directors, a corporation may not pay compensation, including a commission or fee, or another thing

of value to a broker, agent, or other third party who:

(1) is involved in business recruitment or development; and

(2) is not an employee of the corporation.

(b) A corporation that violates Subsection (a) is liable to this state for a civil penalty in an amount not to exceed $10,000.

(c) The attorney general may bring an action to recover the civil penalty in a district court in Travis County or the county in which the violation occurred.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 502.052. USE OF TAX REVENUE FOR MASS TRANSIT-RELATED FACILITIES. A corporation may, as authorized by the corporation's board of directors, spend tax revenue received under this subtitle for the development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.013(b), eff. September 1, 2009.

SUBCHAPTER C. TRAINING REQUIREMENTS

Sec. 502.101. TRAINING REGARDING OPERATION OF CORPORATION. (a) At least once in each 24-month period, the following persons associated with a corporation shall attend a training seminar regarding the operation of a corporation created under this subtitle:

(1) the municipal attorney, administrator, or clerk of the municipality that authorized the creation of the corporation; and

(2) the corporation's executive director or other person responsible for the corporation's daily administration.

(b) The training seminar must provide at least six hours of instruction on topics relating to the legal and proper operation of a corporation created under this subtitle.

(c) The training seminar must be held at least four times each calendar year in a different geographical region of this state.

(d) A corporation may spend corporate revenue to pay for required attendance at the training seminar.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 502.102. PROVISION OF TRAINING SEMINAR. (a) A training seminar under Section 502.101 must be provided by a statewide organization representing corporations created under this subtitle, except that if the economic development office determines that no statewide organization is able to provide a seminar as required by Section 502.101, the office, in conjunction with the attorney general and the comptroller, shall by rule develop the seminar. The office may enter into an agreement for provision of a seminar developed under those rules with a person the office determines is qualified to provide the seminar.

(b) A person providing a training seminar may:

(1) charge a reasonable fee for attending the seminar; and

(2) compensate an individual who provides instruction at the seminar.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 502.103. PROOF OF COMPLIANCE. (a) A person providing a training seminar under Section 502.101 shall issue a certificate of completion, on a form approved by the comptroller, to each person who completes the seminar.

(b) A corporation shall present proof of compliance with Section 502.101 to the comptroller by presenting the certificate of completion issued under Subsection (a) for each person required to attend a training seminar. The comptroller may impose an administrative penalty, in an amount not to exceed $1,000 for each violation, against a corporation that fails to present proof in accordance with this subsection.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER D. REPORTING REQUIREMENTS

Sec. 502.151. REPORT TO COMPTROLLER. (a) Not later than April

1 of each year, the board of directors of a corporation shall submit a report to the comptroller that includes:

(1) a statement of:

(A) the corporation's primary economic development objectives;

(B) the corporation's total revenue during the preceding fiscal year;

(C) the corporation's total expenditures during the preceding fiscal year; and

(D) the corporation's total expenditures during the preceding fiscal year in each of the following categories:

(i) administration;

(ii) personnel;

(iii) marketing or promotion;

(iv) direct business incentives;

(v) job training;

(vi) debt service;

(vii) capital costs;

(viii) affordable housing; and

(ix) payments to taxing units, including school districts;

(2) a list of the corporation's capital assets, including land and buildings; and

(3) any other information the comptroller requires to determine the use of the sales and use tax imposed under Chapter 504 or 505 to encourage economic development in this state.

(b) The report:

(1) must be in the form required by the comptroller; and

(2) may not exceed one page.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 3 (S.B. 450), Sec. 1, eff. September 1, 2019.

Sec. 502.152. NOTICE OF FAILURE TO REPORT. (a) If a corporation does not submit a report as required by Section 502.151 or does not include sufficient information in the report, the

comptroller shall provide to the corporation written notice of the failure, including information on how to correct the failure.

(b) The comptroller may impose an administrative penalty of $200 against a corporation that does not correct the failure before the 31st day after the date the corporation receives notice under Subsection (a). The comptroller by rule shall prescribe the procedures for imposition of the administrative penalty. The rules must protect the corporation's due process rights.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 502.153. REPORT TO LEGISLATURE. Not later than November 1 of each even-numbered year, the comptroller shall submit to the legislature a report on the use of the sales and use tax imposed under Chapters 504 and 505 to encourage economic development in this state. On request, the comptroller shall provide without charge a copy of the report to a corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

CHAPTER 504. TYPE A CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 504.001. DEFINITION. In this chapter, "authorizing municipality" means the municipality that authorizes the creation of a Type A corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.002. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality that:

(1) is located in a county that has a population of 500,000 or less; or

(2) has a population of less than 50,000 and:

(A) is located in two or more counties, one of which has a population of 500,000 or more;

(B) is located within the territorial limits of, but has not elected to become a part of, a metropolitan rapid transit authority:

(i) the principal municipality of which has a population of less than 1.9 million; and

(ii) that was created before January 1, 1980, under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, and is operating under Chapter 451, Transportation Code; or

(C) is located within the territorial limits of, but has not elected to become a part of, a regional transportation authority:

(i) the principal municipality of which has a population of more than 1.3 million; and

(ii) that was created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979, or Chapter 452, Transportation Code, and is operating under Chapter 452, Transportation Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 195, eff. September 1, 2023.

Sec. 504.003. AUTHORITY TO CREATE CORPORATION. (a) A municipality may authorize the creation under this subtitle of a Type A corporation.

(b) A municipality may not authorize the creation of more than one Type A corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.004. CONTENTS OF CERTIFICATE OF FORMATION. The certificate of formation of a Type A corporation must state that the corporation is governed by this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.005. CORPORATION NOT SUBJECT TO CERTAIN PROVISIONS. Sections 501.203, 501.205, 501.251-501.254, 501.255(a) and (b), 501.256, and 501.257 do not apply to a corporation under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER B. GOVERNANCE OF CORPORATION

Sec. 504.051. BOARD OF DIRECTORS. (a) The board of directors of a Type A corporation consists of at least five directors.

(b) A director is appointed by the governing body of the authorizing municipality, serves at the pleasure of that governing body, and may be removed by that governing body at any time without cause.

(c) The governing body of the authorizing municipality shall determine the number of directors and the length of each director's term, except that the length of a director's term may not exceed six years.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.052. OFFICERS. The board of directors of a Type A corporation shall appoint:

(1) a president;

(2) a secretary; and

(3) other officers of the corporation that the governing body of the authorizing municipality considers necessary.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.053. QUORUM. A majority of the entire membership of the board of directors of a Type A corporation is a quorum.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.054. LOCATION OF BOARD MEETINGS. (a) Except as provided by Subsection (b), the board of directors of a Type A corporation shall conduct each board meeting within the boundaries of the authorizing municipality.

(b) If the authorizing municipality is located in a county with a population of less than 30,000, the board of directors of a Type A corporation may conduct a board meeting within the boundaries of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 473 (H.B. 479), Sec. 1, eff. June 17, 2011.

Sec. 504.055. RESTRICTIONS ON REGISTERED AGENT AND OFFICE. (a) The registered agent of a Type A corporation must be an individual who is a resident of this state.

(b) The registered office of a Type A corporation must be located within the boundaries of the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 504.101. APPLICABILITY OF OTHER LAW; CONFLICTS. A Type A corporation has the powers and is subject to the limitations of a corporation created under another provision of this subtitle outside of this chapter. To the extent of a conflict between this chapter and another provision of this subtitle, this chapter prevails.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.102. CONTRACT WITH OTHER PRIVATE CORPORATION. A Type A corporation may contract with another private corporation to:

(1) carry out an industrial development program or objective; or

(2) assist with the development or operation of an economic development program or objective consistent with the purposes and duties provided by this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.103. LIMITATION ON PRIMARY PURPOSE OF PROJECT; EXCEPTIONS. (a) Except as otherwise provided by this section, a Type A corporation may not undertake a project the primary purpose of which is to provide:

(1) a transportation facility;

(2) a solid waste disposal facility;

(3) a sewage facility;

(4) a facility for furnishing water to the general public; or

(5) an air or water pollution control facility.

(b) A Type A corporation may provide a facility described by Subsection (a) to benefit property acquired for a project that has another primary purpose.

(c) A Type A corporation may undertake a project the primary purpose of which is to provide:

(1) a general aviation business service airport that is an integral part of an industrial park;

(2) a port-related facility to support waterborne commerce; or

(3) an airport-related facility, if the authorizing municipality:

(A) is wholly or partly located within 25 miles of an international border; and

(B) has, at the time the project is approved by the corporation as provided by this subtitle:

(i) a population of less than 50,000; or

(ii) an average rate of unemployment that is greater than the state average rate of unemployment during the most

recent 12-month period for which data is available that precedes the date the project is approved.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.104. ASSUMPTION OR PAYMENT OF PREEXISTING DEBT PROHIBITED. A Type A corporation may not:

(1) assume a debt that existed before the date the authorizing municipality authorized the creation of the corporation; or

(2) make an expenditure to pay the principal of or interest on a debt that existed before the date prescribed by Subdivision (1).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.105. LIMITATION ON USE OF REVENUES FOR PROMOTIONAL PURPOSE. (a) Except as provided by Subsection (b), a Type A corporation may spend not more than 10 percent of the corporate revenues for promotional purposes.

(b) A Type A corporation may spend not more than 25 percent of the corporate revenues for promotional purposes if the authorizing municipality:

(1) is located in two counties;

(2) has a population of less than 24,250 according to the 1990 federal census; and

(3) is located wholly or partly within 10 miles of a federal military reservation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.106. EMINENT DOMAIN. A Type A corporation may not exercise the power of eminent domain except by action of the governing body of the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01,

eff. April 1, 2009.

Sec. 504.107. LIABILITY. (a) The following are not liable for damages arising from the performance of a governmental function of a Type A corporation or the authorizing municipality:

(1) the corporation;

(2) a director of the corporation;

(3) the municipality;

(4) a member of the governing body of the municipality; and

(5) an employee of the corporation or municipality.

(b) For purposes of Chapter 101, Civil Practice and Remedies Code (Texas Tort Claims Act), a Type A corporation is a governmental unit and the corporation's actions are governmental functions.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER D. AUTHORIZATION FOR ADDITIONAL PROJECTS

Sec. 504.151. DEFINITIONS. In this subchapter:

(1) "Related infrastructure" has the meaning assigned by Section 334.001.

(2) "Sports venue" means an arena, coliseum, stadium, or other type of area or facility:

(A) that is primarily used or is planned for primary use for one or more professional or amateur sports or athletics events; and

(B) for which a fee is charged or is planned to be charged for admission to the sports or athletics events, other than occasional civic, charitable, or promotional events.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.152. ELECTION TO AUTHORIZE PROJECTS APPLICABLE TO TYPE B CORPORATIONS. (a) An authorizing municipality may submit to the voters of the municipality a ballot proposition that authorizes the Type A corporation to use the sales and use tax imposed under this chapter, including any amount previously authorized and collected,

for a specific project or for a specific category of projects that do not qualify under this chapter but qualify under Chapter 505, including a sports venue and related infrastructure.

(b) The project or category of projects described by Subsection (a) must be clearly described on the ballot so that a voter is able to discern the limits of the specific project or category of projects authorized by the proposition. If maintenance and operating costs of an otherwise authorized facility are to be paid from the sales and use tax, the ballot language must clearly state that fact.

(c) The authorizing municipality may submit the ballot proposition at:

(1) an election held under another provision of this subtitle, including the election at which the proposition to initially approve the adoption of a sales and use tax for the benefit of the corporation is submitted; or

(2) a separate election to be held on a uniform election date.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.153. PUBLIC HEARING PRECEDING ELECTION. Before an election may be held under Section 504.152, a public hearing must be held in the authorizing municipality to inform the municipality's residents of the cost and impact of the project or category of projects. At least 30 days before the date set for the hearing, notice of the date, time, place, and subject of the hearing must be published in a newspaper with general circulation in the municipality in which the project is located. The notice should be published on a weekly basis until the date of the hearing.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.154. LIMITATION ON SUBSEQUENT ELECTION. If a majority of the voters voting on the issue do not approve a specific project or a specific category of projects at an election under Section 504.152, another election concerning the same project or category of projects may not be held before the first anniversary of the date of

the most recent election disapproving the project or category of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.155. SUBSEQUENT APPROVAL OF ADDITIONAL PROJECTS. Prior approval of a specific project at an election or completion of a specific project approved at an election does not prevent an authorizing municipality from seeking voter approval of an additional project or category of projects under this subchapter to be funded from the same sales and use tax.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.156. APPLICABILITY OF CHAPTER TO ADDITIONAL PROJECT. A project undertaken under this subchapter is governed by this chapter, including the provisions of this chapter relating to the authorization and expiration of a sales and use tax.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.171. AUTHORITY OF CERTAIN CORPORATIONS TO UNDERTAKE TYPE B PROJECTS. (a) This section applies only to a Type A corporation the creation of which was authorized by a municipality:

(1) that has also authorized the creation of a Type B corporation; and

(2) that has a population of 7,500 or less.

(b) Notwithstanding Section 504.152, if permitted by ordinance of the authorizing municipality, a Type A corporation to which this section applies may undertake any project that a Type B corporation, the creation of which was authorized by the same municipality, may undertake under Chapter 505.

(c) The governing body of an authorizing municipality may by ordinance revoke any authority granted to a Type A corporation under Subsection (b). A revocation under this subsection does not affect

the authority of a corporation to complete a project already undertaken or the obligation to repay any debt incurred in connection with a project under Subsection (b).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1177 (H.B. 3302), Sec. 1, eff. June 17, 2011.

SUBCHAPTER E. INVESTMENT AGREEMENTS

Sec. 504.201. DEFINITIONS. In this subchapter:

(1) "Base taxable value" means the taxable value of property located in the defined area of a project as of January 1 of the year in which the agreement is entered into under Section 504.202.

(2) "Corresponding taxing unit" means another taxing unit that:

(A) is of the same type of political subdivision as a taxing unit that enters into an agreement under Section 504.202; and

(B) taxes property located in the defined area of a project that is the subject of the agreement.

(3) "Taxing unit" has the meaning assigned by Section 1.04, Tax Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.202. AGREEMENT TO INVEST IN EXTRATERRITORIAL PROJECT. (a) A taxing unit may enter into an agreement with a Type A corporation to invest in a project that is undertaken by the corporation and that is not located in the territory of the taxing unit. A Type A corporation may enter into an agreement under this section with more than one taxing unit.

(b) Before entering into the agreement, the Type A corporation undertaking the project must designate a defined area that includes the territory where the project is to be located.

(c) The agreement must state the base taxable value of the property in the defined area of the project.

(d) The agreement may provide that the taxing unit is entitled to receive from the Type A corporation, in exchange for the investment, an amount equal to a specified percentage of the tax

revenue from taxes imposed by the corresponding taxing unit on the taxable value of the property in the defined area that exceeds the base taxable value, during the period the corresponding taxing unit imposes taxes on that property.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.203. REQUIRED AGREEMENT WITH CORRESPONDING TAXING UNIT. A Type A corporation that enters into an agreement under Section 504.202 shall enter into an agreement with a corresponding taxing unit to recover the amount paid by the corporation to a taxing unit as provided by Section 504.202(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.204. EFFECT ON AUTHORITY UNDER OTHER LAW. (a) This subchapter does not affect a taxing unit's authority to grant a tax abatement.

(b) This subchapter does not affect a Type A corporation's authority to invest in a project or recover its total investment by contract under Section 501.159.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER F. SALES AND USE TAX

Sec. 504.251. TAX AUTHORIZED. The authorizing municipality may adopt a sales and use tax for the benefit of a Type A corporation if the tax is approved by a majority of the voters of the municipality voting at an election held for that purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.252. SALES TAX. (a) If the authorizing municipality

adopts the tax under Section 504.251, a tax is imposed on the receipts from the sale at retail of taxable items within the municipality at the rate approved by the voters.

(b) The rate of the tax imposed under Subsection (a) may be any rate that is an increment of one-eighth of one percent, that the authorizing municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 504.254(a).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 5, eff. September 1, 2015.

Sec. 504.253. USE TAX. (a) If the authorizing municipality adopts the tax under Section 504.251, an excise tax is imposed on the use, storage, or other consumption within the municipality of taxable items purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality.

(b) The rate of the excise tax is the same as the rate of the sales tax portion of the sales and use tax and is applied to the sales price of the taxable items.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.254. COMBINED TAX RATE. (a) An authorizing municipality may not adopt a rate under this chapter that, when added to the rates of all other sales and use taxes imposed by the authorizing municipality and other political subdivisions of this state having territory in the authorizing municipality, would result in a combined rate exceeding two percent.

(b) An election adopting a rate that would result in a rate exceeding the combined rate limit under Subsection (a) has no effect.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.255. APPLICABILITY OF TAX CODE. (a) Chapter 321, Tax Code, governs an election to approve the adoption of the sales and use tax under this chapter and governs the imposition, computation, administration, governance, use, and abolition of the tax except as inconsistent with this chapter.

(b) The tax imposed under this chapter takes effect as provided by Section 321.102(a), Tax Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.256. BALLOT. In an election to adopt the sales and use tax under this chapter, the ballot shall be printed to provide for voting for or against the proposition: "The adoption of a sales and use tax for the promotion and development of new and expanded business enterprises at the rate of _____ percent" (insert appropriate rate).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 6, eff. September 1, 2015.

Sec. 504.257. LIMITATION ON DURATION OF TAX. (a) At an election held under Section 504.251 or 504.258, the authorizing municipality may also allow the voters to vote on a ballot proposition to limit the period for imposition of a sales and use tax. If an authorizing municipality elects to limit the period for imposition of the tax, the following phrase shall be added to the end of the ballot proposition prescribed by Section 504.256: "to be imposed for _____ years" (the number of years to be inserted as appropriate). The governing body of the municipality shall set the expiration date of the proposed tax to occur on the appropriate anniversary of the effective date of the tax.

(b) A sales and use tax imposed for a limited period under this section expires on the date set by the governing body of the authorizing municipality under Subsection (a) unless the tax is repealed on an earlier date by a majority of the voters voting in an

election held in the municipality. If an election to abolish the tax is held, Sections 321.102(a) and 321.402(b), Tax Code, apply to the date of repeal.

(c) If an authorizing municipality reduces the rate of an additional sales and use tax under Chapter 321, Tax Code, to impose a tax under this chapter for a limited period as provided by this section, and the municipality does not have an election to change the rate of the additional sales and use tax before the tax under this chapter expires, on the date the tax under this chapter expires, the rate of the municipality's additional sales and use tax returns to the rate in effect immediately before the tax under this chapter was adopted. The municipality is not required to hold an election under Chapter 321, Tax Code, to impose the additional sales and use tax at that rate.

(d) A sales and use tax that is approved without limiting the period during which the tax is imposed remains in effect until repealed by election.

(e) An authorizing municipality that has imposed a tax under this chapter may extend the period of the tax's imposition or reimpose the tax only if the extension or reimposition is approved by a majority of the voters of the municipality voting at an election held for that purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.258. ELECTION TO REDUCE OR INCREASE TAX RATE. (a) An authorizing municipality that has imposed a sales and use tax under this chapter may, in the same manner and by the same procedure as the municipality imposed the tax, reduce or increase the tax rate by a majority of the voters of the municipality voting at an election held for that purpose.

(b) On petition of 10 percent or more of the registered voters of the authorizing municipality requesting an election to reduce or increase the tax rate under this chapter, the governing body of the municipality shall order an election on the issue.

(c) The tax rate may be reduced or increased to any rate that is an increment of one-eighth of one percent, that the authorizing municipality determines is appropriate, and that would not result in

a combined rate that exceeds the maximum combined rate prescribed by Section 504.254(a).

(d) The ballot for an election under this section shall be printed in the same manner as the ballot under Section 504.256.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 7, eff. September 1, 2015.

Sec. 504.259. REDUCTION OF TAX WITHIN REGIONAL TRANSPORTATION AUTHORITY. Notwithstanding any other provision of this chapter, a tax under this chapter imposed by an authorizing municipality that is located within the territorial limits of a regional transportation authority and that has been added to the territory of the authority under Section 452.6025, Transportation Code, is subject to reduction in the manner prescribed by Section 452.6025, Transportation Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.260. LIMITED SALES AND USE TAX FOR SPECIFIC PROJECT. (a) At an election held under Section 504.251 or 504.258, the authorizing municipality may also allow the voters to vote on a ballot proposition to limit the use of the sales and use tax to a specific project. If an authorizing municipality elects to limit the use of the tax to a specific project, in the ballot proposition prescribed by Section 504.256 or 504.261 a description of the project shall be substituted for the words "new and expanded business enterprises."

(b) When the last of a Type A corporation's obligations have been satisfied regarding the specific project for which the sales and use tax was limited, the corporation shall send to the comptroller a notice stating that the sales and use tax imposed for the specific project may not be collected after the last day of the first calendar quarter beginning after the date of notification. A sales and use tax imposed for a specific project under this section may not be collected after the last day of the first calendar quarter beginning

after the date of the notification to the comptroller. The state shall forward revenue collected after the obligations for the specific project have been satisfied to the governing body of the authorizing municipality to be used to pay current bonded indebtedness of the municipality.

(c) A Type A corporation created to perform a specific project under this section may retain its corporate existence and perform any other project approved by the voters of the authorizing municipality at an election held under Section 504.251 or 504.258.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.261. CONCURRENT ELECTION WITH ELECTION UNDER TAX CODE. (a) At an election to adopt, reduce, increase, or abolish the sales and use tax under this chapter, the authorizing municipality may also allow voters to vote on the same ballot on a proposition to impose, reduce, increase, or abolish the additional sales and use tax imposed under Section 321.101(b), Tax Code, if the municipality is authorized by Chapter 321, Tax Code, to impose, reduce, increase, or abolish the additional sales and use tax. Except as provided by Subsection (b), the municipality must follow the procedures of Chapter 321, Tax Code, in relation to the imposition, reduction, increase, or abolishment of the additional sales and use tax imposed under Section 321.101(b), Tax Code.

(b) In an election to impose, reduce, increase, or abolish the tax under this chapter and the additional sales and use tax, the ballot shall be printed to provide for voting for or against the proposition: "The adoption of a sales and use tax within the municipality for the promotion and development of new and expanded business enterprises at the rate of _____ percent (insert appropriate rate) and the adoption of an additional sales and use tax within the municipality at the rate of _____ percent to be used to reduce the property tax rate" (insert appropriate rate).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 8, eff. September 1, 2015.

Sec. 504.262. PROCEDURES ON EXPIRATION OF TAX. (a) Before the 60th day before the date that a sales and use tax imposed under this chapter is to expire, the governing body of the authorizing municipality imposing the tax shall send to the comptroller a notice stating the expiration date of the tax.

(b) The state shall forward revenue collected from the imposition of the tax after the tax's expiration date to the governing body of the authorizing municipality to be used to pay current bonded indebtedness of the municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER G. USE OF TAX PROCEEDS

Sec. 504.301. DELIVERY AND GENERAL USE OF TAX PROCEEDS. On the authorizing municipality's receipt from the comptroller of the proceeds of the sales and use tax imposed under this chapter, the authorizing municipality shall deliver the proceeds to the Type A corporation for use in carrying out the corporation's functions.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.302. PAYMENT OF MAINTENANCE AND OPERATING COSTS; ELECTION. (a) The costs of a publicly owned and operated project purchased or constructed under this chapter include the maintenance and operating costs of the project.

(b) The proceeds of the sales and use tax imposed under this chapter may be used to pay the maintenance and operating costs of a project unless, not later than the 60th day after the date notice of the specific use of the tax proceeds is first published, the governing body of the authorizing municipality of the Type A corporation undertaking the project receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the tax proceeds may be used to pay the maintenance and operating costs of the project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.303. PAYMENT OF BONDS. The proceeds of the sales and use tax imposed under this chapter may be used to pay the principal of, interest on, and other costs relating to the Type A corporation's bonds, but the bonds or any instrument related to the bonds may not give a bondholder a right to demand payment from tax proceeds in excess of the proceeds collected from the tax imposed under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.304. PAYMENT FOR CLEANUP OF CONTAMINATED PROPERTY; ELECTION. (a) The economic development office, with the assistance of the Texas Commission on Environmental Quality, may encourage a Type A corporation to use proceeds from the sales and use tax imposed under this chapter for the cleanup of contaminated property.

(b) A Type A corporation may use proceeds from the sales and use tax for the cleanup of contaminated property only if the use of tax proceeds for that purpose is authorized by a majority of the voters of the authorizing municipality voting at an election held for that purpose. The ballot in an election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for the cleanup of contaminated property."

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.305. PAYMENT FOR JOB TRAINING. The proceeds of the sales and use tax imposed under this chapter may also be used to pay expenses relating to job training incurred by the Type A corporation under Section 501.162.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER H. TERMINATION OF CORPORATION

Sec. 504.351. ELECTION TO TERMINATE EXISTENCE OF CORPORATION ON PETITION. (a) On petition of 10 percent or more of the registered voters of an authorizing municipality requesting an election on the termination of the existence of the Type A corporation, the governing body of the municipality shall order an election on the issue.

(b) The authorizing municipality shall hold the election on the next available uniform election date that occurs after the time required by Section 3.005, Election Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.352. BALLOT. The ballot for an election held under Section 504.351 shall be printed to provide for voting for or against the proposition: "Termination of the _____ (name of the corporation)."

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.353. TERMINATION OF EXISTENCE OF CORPORATION. (a) If a majority of voters voting on the issue at an election held under Section 504.351 approve the termination, the Type A corporation shall:

(1) continue operations only as necessary to pay the principal of and interest on the corporation's bonds and to meet obligations incurred before the date of the election; and

(2) dispose of the corporation's assets and apply the proceeds to satisfy obligations described by Subdivision (1), to the extent practicable.

(b) When the last of the Type A corporation's obligations are satisfied, any remaining assets of the corporation shall be transferred to the authorizing municipality, and the existence of the corporation is terminated.

(c) A tax imposed under this chapter may not be collected after the last day of the first calendar quarter that begins after the Type

A corporation notifies the comptroller that the last of the corporation's obligations has been satisfied.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

CHAPTER 505. TYPE B CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 505.001. DEFINITION. In this chapter, "authorizing municipality" means the municipality that authorizes the creation of a Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.002. APPLICABILITY OF CHAPTER. This chapter applies only to:

(1) a municipality:

(A) that is located in a county with a population of 500,000 or more; and

(B) in which the combined rate of all sales and use taxes imposed by the municipality, this state, and other political subdivisions of this state having territory in the municipality does not exceed 8.25 percent on the date of any election held under or made applicable to this chapter;

(2) a municipality:

(A) that has a population of 400,000 or more;

(B) that is located in more than one county; and

(C) in which the combined rate of all sales and use taxes imposed by the municipality, this state, and other political subdivisions of this state having territory in the municipality, including taxes imposed under this chapter, does not exceed 8.25 percent; or

(3) a municipality to which Chapter 504 applies.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.003. AUTHORITY TO CREATE CORPORATION. (a) A municipality may authorize the creation under this subtitle of a Type B corporation.

(b) A municipality may not authorize the creation of more than one Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.004. CONTENTS OF CERTIFICATE OF FORMATION. The certificate of formation of a Type B corporation:

(1) must state that the corporation is governed by this chapter; and

(2) may include in the corporation's name any word or phrase the authorizing municipality specifies.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.005. CORPORATION NOT SUBJECT TO CERTAIN PROVISIONS. Sections 501.203, 501.205, 501.251-501.254, 501.255(a) and (b), 501.256, and 501.257 do not apply to a corporation under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER B. GOVERNANCE OF CORPORATION

Sec. 505.051. BOARD OF DIRECTORS. (a) The board of directors of a Type B corporation consists of seven directors.

(b) A director is appointed by the governing body of the authorizing municipality for a two-year term.

(c) A director may be removed by the governing body of the authorizing municipality at any time without cause.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.052. RESTRICTION ON BOARD MEMBERSHIP. (a) Each director of a Type B corporation authorized to be created by a municipality with a population of 20,000 or more must be a resident of the municipality.

(b) Each director of a Type B corporation authorized to be created by a municipality with a population of less than 20,000 must:

(1) be a resident of the municipality;

(2) be a resident of the county in which the major part of the area of the municipality is located; or

(3) reside:

(A) within 10 miles of the municipality's boundaries; and

(B) in a county bordering the county in which most of the area of the municipality is located.

(c) Three directors of a Type B corporation must be persons who are not employees, officers, or members of the governing body of the authorizing municipality.

(d) Notwithstanding Subsections (a)-(c), if a municipality terminates a Type A corporation's existence and authorizes the creation of a Type B corporation, a person serving as a director of the Type A corporation at the time of termination may serve on the board of directors of the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.053. OFFICERS. The board of directors of a Type B corporation shall appoint:

(1) a president;

(2) a secretary; and

(3) other officers of the corporation the governing body of the authorizing municipality considers necessary.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.054. QUORUM. A majority of the entire membership of the board of directors of a Type B corporation is a quorum.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.055. LOCATION OF BOARD MEETINGS. (a) Except as provided by Subsection (b), the board of directors of a Type B corporation shall conduct all meetings within the boundaries of the authorizing municipality.

(b) If the authorizing municipality is located in a county with a population of less than 30,000, the board of directors of a Type B corporation may conduct a board meeting within the boundaries of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 473 (H.B. 479), Sec. 2, eff. June 17, 2011.

Sec. 505.056. RESTRICTIONS ON REGISTERED AGENT AND OFFICE. (a) The registered agent of a Type B corporation must be an individual who is a resident of this state.

(b) The registered office of a Type B corporation must be located within the boundaries of the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 505.101. APPLICABILITY OF OTHER LAW; CONFLICTS. A Type B corporation has the powers granted by this chapter and by other chapters of this subtitle and is subject to the limitations of a corporation created under another provision of this subtitle. To the extent of a conflict between this chapter and another provision of this subtitle, this chapter prevails.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.102. CONTRACT WITH OTHER PRIVATE CORPORATION. A Type B corporation may contract with another private corporation to:

(1) carry out an industrial development program or objective; or

(2) assist with the development or operation of an economic development program or objective consistent with the purposes and duties specified by this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.103. LIMITATION ON USE OF REVENUES FOR PROMOTIONAL PURPOSES. A Type B corporation may spend not more than 10 percent of the corporate revenues for promotional purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.104. BOND REPAYMENT. (a) Bonds or other obligations that mature in 30 years or less and that are issued to pay the costs of projects of a type added to the definition of "project" by Subchapter D may be made payable from any source of funds available to the Type B corporation, including the proceeds of a sales and use tax imposed under this chapter.

(b) Bonds or other obligations that by their terms are payable from the tax proceeds:

(1) may not be paid wholly or partly from any property taxes imposed or to be imposed by the authorizing municipality; and

(2) are not a debt of and do not give rise to a claim for payment against the authorizing municipality, except as to sales and use tax revenue held by the municipality and required under this chapter to be delivered to the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.1041. APPRAISAL REQUIRED BEFORE PURCHASE OF PROPERTY WITH BOND PROCEEDS. A Type B corporation may not purchase property

for a project wholly or partly with bond proceeds until the corporation obtains an independent appraisal of the property's market value.

Added by Acts 2011, 82nd Leg., R.S., Ch. 719 (H.B. 782), Sec. 2, eff. September 1, 2011.

Sec. 505.105. EMINENT DOMAIN. A Type B corporation may exercise the power of eminent domain only:

(1) on approval of the action by the governing body of the authorizing municipality; and

(2) in accordance with and subject to the laws applicable to the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.106. LIABILITY. (a) The following are not liable for damages arising from the performance of a governmental function of a Type B corporation or the authorizing municipality:

(1) the corporation;

(2) a director of the corporation;

(3) the municipality;

(4) a member of the governing body of the municipality; or

(5) an employee of the corporation or municipality.

(b) For purposes of Chapter 101, Civil Practice and Remedies Code, a Type B corporation is a governmental unit and the corporation's actions are governmental functions.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER D. AUTHORIZED PROJECTS

Sec. 505.151. AUTHORIZED PROJECTS. In this chapter, "project" means land, buildings, equipment, facilities, expenditures, and improvements included in the definition of "project" under Chapter 501, including:

(1) job training as provided by Section 501.162; and

(2) recycling facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.152. PROJECTS RELATED TO RECREATIONAL OR COMMUNITY FACILITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.153. PROJECTS RELATED TO AFFORDABLE HOUSING. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of development and expansion of affordable housing, as described by 42 U.S.C. Section 12745.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.154. PROJECTS RELATED TO WATER SUPPLY FACILITIES AND WATER CONSERVATION PROGRAMS. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for:

(1) the development or improvement of water supply

facilities, including dams, transmission lines, well field developments, and other water supply alternatives; or

(2) the development and institution of water conservation programs, including incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.155. PROJECTS RELATED TO BUSINESS ENTERPRISES THAT CREATE OR RETAIN PRIMARY JOBS. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including:

(1) a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, and any improvements or facilities related to a project described by this subdivision; and

(2) any other project that the board of directors in the board's discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.156. PROJECTS RELATED TO BUSINESS ENTERPRISES IN CERTAIN MUNICIPALITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development, retention, or expansion of business enterprises if the project is undertaken by a Type B corporation authorized to be created by a municipality:

(1) that has not for each of the preceding two fiscal years received more than $50,000 in revenues from sales and use taxes imposed under this chapter; and

(2) the governing body of which has authorized the project by adopting a resolution only after giving the resolution at least two separate readings conducted at least one week apart.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.1561. PROJECTS RELATED TO AIRPORT FACILITIES IN CERTAIN MUNICIPALITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development or expansion of airport or railport facilities, including hangars, maintenance and repair facilities, cargo facilities, and related infrastructure located on or adjacent to an airport or railport facility, if the project is undertaken by a Type B corporation authorized to be created by a municipality:

(1) that enters into a development agreement with an entity in which the entity acquires a leasehold or other possessory interest from the corporation and is authorized to sublease the entity's interest for other projects authorized by Sections 505.151 through 505.156; and

(2) the governing body of which has authorized the development agreement by adopting a resolution at a meeting called as authorized by law.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.014(a), eff. September 1, 2009.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 150 (S.B. 2052), Sec. 2, eff. September 1, 2009.

Sec. 505.157. PROJECTS RELATED TO BUSINESS ENTERPRISES IN LANDLOCKED COMMUNITIES. (a) In this section, "landlocked community" means a municipality that:

(1) is wholly or partly located in a county with a population of 2.5 million or more; and

(2) has within its municipal limits and extraterritorial jurisdiction less than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the

municipality's zoning laws or land use restrictions.

(b) For a landlocked community that authorizes or has authorized the creation of a Type B corporation, "project" also includes expenditures found by the board of directors to be required for the promotion of new or expanded business enterprises in the landlocked community.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 196, eff. September 1, 2023.

Sec. 505.158. PROJECTS RELATED TO BUSINESS DEVELOPMENT IN CERTAIN SMALL MUNICIPALITIES. (a) For a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, "project" also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation's board of directors to promote new or expanded business development.

(b) A Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than $10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.159. HEARING REQUIRED TO UNDERTAKE PROJECT. (a) Except as provided by Subsection (b), a Type B corporation shall hold at least one public hearing on a proposed project before spending money to undertake the project.

(b) A Type B corporation the creation of which was authorized by a municipality with a population of less than 20,000 is not required to hold a public hearing under this section if the proposed project is defined by Subchapter C, Chapter 501.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01,

eff. April 1, 2009.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.015(a), eff. September 1, 2009.

Sec. 505.160. ELECTION REQUIRED FOR PROJECT; PETITION. (a) A Type B corporation may undertake a project under this chapter unless, not later than the 60th day after the date notice of the specific project or general type of project is first published, the governing body of the authorizing municipality receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the specific project or general type of project is undertaken.

(b) The governing body of the authorizing municipality is not required to hold an election after the submission of a petition under Subsection (a) if the voters of the municipality have previously approved the undertaking of the specific project or general type of project:

(1) at an election ordered for that purpose by the governing body of the municipality; or

(2) in conjunction with another election required under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.161. PUBLIC PURPOSE DESIGNATION; EXEMPTION FROM TAXATION. (a) The legislature finds for all constitutional and statutory purposes that:

(1) a project of the type added to the definition of "project" by this subchapter is owned, used, and held for a public purpose for and on behalf of the municipality that authorized the creation of the Type B corporation; and

(2) except as otherwise provided by this section, Section 501.160 of this subtitle and Section 25.07(a), Tax Code, do not apply to a leasehold or other possessory interest granted by a Type B corporation during the period the corporation owns projects on behalf of the authorizing municipality.

(b) A project is exempt from ad valorem taxation under Section 11.11, Tax Code, for the period described by Subsection (a)(2) of this section.

(c) This subsection applies only if the voters of the authorizing municipality of a Type B corporation have not approved the adoption of a sales and use tax for the benefit of the corporation under Section 505.251. An ownership, leasehold, or other possessory interest of a person other than the corporation in real property constituting a project of the corporation described by this section:

(1) is subject to ad valorem taxation under Section 25.07(a), Tax Code; or

(2) if the interest was created under an agreement entered into by the corporation before September 1, 1999, is covered by the provisions of the law codified by this section that govern ad valorem taxation of the ownership, leasehold, or other possessory interest that were in effect on the date the agreement was executed.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER E. SPORTS VENUE PROJECTS AND RELATED INFRASTRUCTURE

Sec. 505.201. DEFINITIONS. In this subchapter:

(1) "Related infrastructure" has the meaning assigned by Section 334.001.

(2) "Sports venue" means an arena, coliseum, stadium, or other type of area or facility that is primarily used or is planned for primary use for one or more professional or amateur sports or athletics events and for which a fee is charged or is planned to be charged for admission to the sports or athletics events, other than occasional civic, charitable, or promotional events. The term does not include an arena, coliseum, stadium, or other type of area or facility that is or will be owned and operated by a state-supported institution of higher education.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.202. ELECTION: USE OF TAX PROCEEDS FOR SPORTS VENUE

PROJECTS. (a) An authorizing municipality may submit to the voters of the municipality a ballot proposition that authorizes the Type B corporation to use the sales and use tax, including any amount previously authorized and collected, for a specific sports venue project, including related infrastructure, or for a specific category of sports venue projects, including related infrastructure.

(b) The project or category of projects described by Subsection (a) must be clearly described on the ballot so that a voter is able to discern the limits of the specific project or category of projects authorized by the proposition. If maintenance and operating costs of an otherwise authorized facility are to be paid from the sales and use tax, the ballot language must clearly state that fact.

(c) The authorizing municipality may submit the ballot proposition at:

(1) an election held under another provision of this subtitle, including the election at which the proposition to initially approve the adoption of a sales and use tax for the benefit of the Type B corporation is submitted; or

(2) a separate election to be held on a uniform election date.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.203. PUBLIC HEARING PRECEDING ELECTION. Before an election may be held under Section 505.202, a public hearing must be held in the authorizing municipality to inform the municipality's residents of the cost and impact of the project or category of projects. At least 30 days before the date set for the hearing, notice of the date, time, place, and subject of the hearing must be published each week until the date of the hearing in a newspaper with general circulation in the municipality in which the project is located.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.204. LIMITATION ON SUBSEQUENT ELECTION. If a majority of the voters voting on the issue do not approve a specific sports

venue project or a specific category of sports venue projects at an election under Section 505.202, another election concerning the same project or category of projects may not be held before the first anniversary of the date of the most recent election disapproving the project or category of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.205. SUBSEQUENT APPROVAL OF ADDITIONAL PROJECTS. Prior approval of a specific sports venue project at an election or completion of a specific sports venue project approved at an election does not prevent an authorizing municipality from seeking voter approval of an additional project or category of projects under this subchapter to be funded from the same sales and use tax that is used to fund the previously approved sports venue project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.206. EFFECT OF SUBCHAPTER ON ELECTION AUTHORITY. This subchapter does not affect an authorizing municipality's authority to call an election under this chapter to impose a sales and use tax for any purpose authorized by this chapter after the sales and use tax described by this subchapter is, in accordance with Section 505.258, no longer collected.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER F. SALES AND USE TAX

Sec. 505.251. TAX AUTHORIZED. The governing body of the authorizing municipality by ordinance may adopt a sales and use tax for the benefit of a Type B corporation if the tax is approved by a majority of the voters of the municipality voting at an election held for that purpose in accordance with Chapter 321, Tax Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01,

eff. April 1, 2009.

Sec. 505.252. SALES TAX. (a) If the authorizing municipality adopts the tax under Section 505.251, a tax is imposed on the receipts from the sale at retail of taxable items within the municipality at the rate approved at the election.

(b) The rate of a tax adopted under this chapter may be any rate that is an increment of one-eighth of one percent, that the authorizing municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 505.256(a).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 9, eff. September 1, 2015.

Sec. 505.253. USE TAX. (a) If the authorizing municipality adopts the tax under Section 505.251, an excise tax is imposed on the use, storage, or other consumption within the municipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality.

(b) The rate of the excise tax is the same as the rate of the sales tax portion of the sales and use tax and is applied to the sale price of the tangible personal property.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.254. SPECIFICATION OF TAX RATE ON BALLOT. In an election held to adopt the sales and use tax under this chapter, the ballot proposition must specify the rate of the tax to be adopted.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.255. ADOPTION OF TAX AT ELECTION TO REDUCE OR ABOLISH TAX FOR TYPE A CORPORATION. A municipality that holds an election to reduce the rate of or abolish a tax imposed under Chapter 504 may in the same proposition or in a separate proposition on the same ballot adopt a tax under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.256. APPLICABILITY OF TAX CODE. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, collection, and remittance of the sales and use tax, except as inconsistent with this chapter. An authorizing municipality may not adopt a rate under this chapter that, when added to the rates of all other sales and use taxes imposed by the authorizing municipality and other political subdivisions of this state having territory in the authorizing municipality, would result in a combined rate exceeding two percent at any location in the municipality.

(b) Except as provided by this subsection, the tax imposed under this chapter takes effect as provided by Section 321.102(a), Tax Code. If an election is held under this chapter at the same time an election is held to impose or change the rate of the additional municipal sales and use tax, the tax under this chapter and the imposition or change in rate of the additional municipal sales and use tax take effect as provided by Section 321.102(b), Tax Code.

(c) After the effective date of the taxes imposed under this chapter, the adoption of a sales and use tax or the attempted adoption of a sales and use tax by the authorizing municipality or another taxing jurisdiction having territory in the municipality does not impair the taxes imposed under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 10, eff. September 1, 2015.

Sec. 505.2565. LIMITATION ON DURATION OF TAX. (a) At an election held under Section 505.251, the authorizing municipality may

also allow the voters to vote on a ballot proposition to limit the period for imposition of a sales and use tax.

(b) An authorizing municipality that has imposed a tax for a limited time under this section may extend the period of the tax's imposition or reimpose the tax only if the extension or reimposition is approved by a majority of the voters of the municipality voting at an election held for that purpose in the same manner as an election held under Section 504.257.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.016(a), eff. September 1, 2009.

Sec. 505.2566. ELECTION TO REDUCE OR INCREASE TAX RATE. (a) An authorizing municipality that has imposed a sales and use tax under this chapter may, in the same manner and by the same procedure as the municipality imposed the tax, reduce or increase the tax rate by a majority of the voters of the municipality voting at an election held for that purpose.

(b) On petition of 10 percent or more of the registered voters of the authorizing municipality requesting an election to reduce or increase the tax rate under this chapter, the governing body of the municipality shall order an election on the issue.

(c) The tax rate may be reduced or increased to any rate that is an increment of one-eighth of one percent, that the authorizing municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 505.256(a).

Added by Acts 2017, 85th Leg., R.S., Ch. 882 (H.B. 3045), Sec. 1, eff. June 15, 2017.

Sec. 505.257. REDUCTION OF TAX WITHIN REGIONAL TRANSPORTATION AUTHORITY. Notwithstanding any other provision of this chapter, a tax imposed under this chapter by an authorizing municipality that is located within the territorial limits of a regional transportation authority and that has been added to the territory of the authority under Section 452.6025, Transportation Code, is subject to reduction in the manner prescribed by Section 452.6025, Transportation Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.2575. LIMITED SALES AND USE TAX FOR SPECIFIC PROJECT. (a) At an election held under Section 505.251, the authorizing municipality may also allow the voters to vote on a ballot proposition to limit the use of the sales and use tax to a specific project.

(b) A Type B corporation created to perform a specific project as provided by this section may retain its corporate existence and perform any other project approved by the voters of the authorizing municipality at an election held for that purpose in the same manner as Section 504.260 provides for an election held under Section 504.251. Before spending money to undertake a project, a Type B corporation shall hold a public hearing as otherwise provided by this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.016(a), eff. September 1, 2009.

Sec. 505.258. CESSATION OF COLLECTION OF TAXES. A sales and use tax imposed under this chapter may not be collected after the last day of the first calendar quarter that occurs after the Type B corporation notifies the comptroller that:

(1) all bonds or other obligations of the corporation, including any refunding bonds, payable wholly or partly from the proceeds of the sales and use tax imposed under this chapter, have been paid in full; or

(2) the total amount, exclusive of guaranteed interest, necessary to pay in full the bonds and other obligations has been set aside in a trust account dedicated to the payment of the bonds and other obligations.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.259. ELECTION REQUIREMENT FOR CERTAIN MUNICIPALITIES. For a tax under this subchapter at a rate that does not exceed one-

half of one percent, the election requirement under Section 505.251 is satisfied and another election is not required if the voters of the authorizing municipality approved the imposition of an additional one-half cent sales and use tax at an election held before March 28, 1991, under an ordinance calling the election that:

(1) was published in a newspaper of general circulation in the municipality at least 14 days before the date of the election; and

(2) expressly stated that the election was being held in anticipation of the enactment of enabling and implementing legislation without further elections.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 11, eff. September 1, 2015.

SUBCHAPTER G. USE OF TAX PROCEEDS

Sec. 505.301. DELIVERY OF TAX PROCEEDS. On the authorizing municipality's receipt from the comptroller of the proceeds of the sales and use tax imposed under this chapter, the authorizing municipality shall deliver the proceeds to the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.302. PAYMENT OF PROJECT COSTS, BONDS, OR OTHER OBLIGATIONS. The proceeds of the sales and use tax imposed under this chapter may be used to:

(1) pay the costs of projects of the types added to the definition of "project" by Subchapter D; or

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the Type B corporation to:

(A) pay the costs of the projects; or

(B) refund bonds or other obligations issued to pay the costs of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.303. PAYMENT OF MAINTENANCE AND OPERATING COSTS; ELECTION. (a) The costs of a publicly owned and operated project purchased or constructed under this chapter include the maintenance and operating costs of the project.

(b) The proceeds of taxes may be used to pay the maintenance and operating costs of a project, unless not later than the 60th day after the date notice of the specific use of the tax proceeds is first published, the governing body of the authorizing municipality of the Type B corporation undertaking the project receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the tax proceeds may be used to pay the maintenance and operating costs of a project.

(c) The governing body of the authorizing municipality is not required to hold an election after the submission of a petition under Subsection (b) if the voters of the municipality have previously approved at an election ordered for that purpose by the governing body or in conjunction with another election required under this chapter that:

(1) the costs of a publicly owned and operated project purchased or constructed under this chapter include the maintenance and operating costs of the project; and

(2) the tax proceeds may be used to pay the maintenance and operating costs of a project.

(d) An authorizing municipality is not required to hold an election under this section if the municipality:

(1) is located in a county with a population of more than 1.3 million; and

(2) has held before February 1, 1993, an election under this chapter at which the additional sales tax was approved.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.304. PAYMENT FOR CERTAIN WATER-RELATED PROJECTS:

ELECTION REQUIRED. (a) A Type B corporation may not use proceeds from the sales and use tax to undertake a project described by Section 505.154 unless the use of tax proceeds for that purpose is authorized by a majority of the voters voting at an election held in the municipality for that purpose.

(b) The ballot in an election held under this section shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for infrastructure relating to _____ (insert water supply facilities or water conservation programs, as appropriate)."

(c) An election held under this section may be authorized by the governing body of an authorizing municipality subsequent to an earlier election authorized under Section 505.251.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.305. PAYMENT FOR CLEANUP OF CONTAMINATED PROPERTY; ELECTION. (a) The economic development office, with the assistance of the Texas Commission on Environmental Quality, may encourage a Type B corporation to use proceeds from the sales and use tax imposed under this chapter for the cleanup of contaminated property.

(b) Notwithstanding any other provision of this chapter, a Type B corporation may use proceeds from the sales and use tax for the cleanup of contaminated property only if the use of tax proceeds for that purpose is authorized by a majority of the voters voting at an election held in the authorizing municipality for that purpose. The ballot in an election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for the cleanup of contaminated property."

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER H. TERMINATION OF CORPORATION

Sec. 505.351. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a Type B corporation created on or after September 1, 1999.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.352. ELECTION TO TERMINATE EXISTENCE OF CORPORATION ON PETITION. (a) The governing body of an authorizing municipality shall order an election on the termination of the existence of the Type B corporation on receipt of a petition requesting the election that is signed by at least 10 percent of the registered voters of the municipality.

(b) The authorizing municipality shall hold the election on the first available uniform election date that occurs after the time required by Section 3.005, Election Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.353. BALLOT. The ballot for an election held under Section 505.352 shall be printed to permit voting for or against the proposition: "Termination of the _____ (name of corporation)."

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.354. TERMINATION OF EXISTENCE OF CORPORATION. (a) If a majority of the votes cast at an election held under Section 505.352 approve the termination, the Type B corporation shall:

(1) continue operations only as necessary to meet the obligations the corporation incurred before the date of the election, including paying the principal of and interest on the corporation's bonds; and

(2) liquidate the corporation's assets and apply the proceeds to satisfy the corporation's obligations, to the extent practicable.

(b) After the Type B corporation has satisfied all of the corporation's obligations, any remaining assets of the corporation shall be transferred to the authorizing municipality, and the existence of the corporation is terminated.

(c) The authorizing municipality shall promptly notify the

comptroller and the secretary of state of the date the existence of a Type B corporation is terminated under this subchapter.

(d) A tax imposed under this chapter may not be collected after the last day of the first calendar quarter that begins after the authorizing municipality provides notice under Subsection (c).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.355. ELECTION REJECTING TERMINATION. If less than a majority of the votes cast at an election held under Section 505.352 approve the termination, Section 505.354 has no effect.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

CHAPTER 506. COUNTY ALLIANCE CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 506.001. DEFINITION. In this chapter, "county alliance corporation" means the corporation authorized to be created by a county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 506.002. CREATION OF COUNTY ALLIANCE; AUTHORITY TO CREATE CORPORATION. Two or more counties that are adjacent or in close proximity, as determined by the commissioners courts of the counties involved, may establish a county alliance to authorize the creation of a corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 506.003. STATUS OF COUNTY ALLIANCE AS SINGLE UNIT. For purposes of this subtitle, a county alliance is considered a single unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 506.004. APPLICABILITY OF SUBTITLE. The provisions of this subtitle outside of this chapter apply to a county alliance and to a county alliance corporation, except to the extent inconsistent with this chapter or another provision of this subtitle that expressly applies to a county alliance or to a county alliance corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER B. GOVERNANCE OF CORPORATION

Sec. 506.051. APPOINTMENT OF DIRECTORS; TERM. (a) The board of directors of a county alliance corporation consists of directors appointed by the commissioners court of each county in the alliance as follows:

(1) three directors from each county if the alliance includes 10 or fewer counties; or

(2) two directors from each county if the alliance includes more than 10 counties.

(b) A director may not serve more than six years.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 506.052. NO COMPENSATION; REIMBURSEMENT FOR EXPENSES. A director serves without compensation but is entitled to reimbursement for expenses incurred in the performance of the director's duties.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 506.053. REMOVAL OF DIRECTOR. A director is subject to removal at the will of the appointing county.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER C. MEMBERSHIP IN COUNTY ALLIANCE

Sec. 506.101. MEMBERSHIP IN ESTABLISHED COUNTY ALLIANCE. A county may become a member of an established county alliance that has authorized the creation of a county alliance corporation. The county becomes a member of the county alliance if:

(1) the commissioners court of the county proposing to join the county alliance petitions the board of directors of the established county alliance corporation for admission;

(2) the board approves the admission of the petitioning county; and

(3) the petitioning county:

(A) agrees to abide by the bylaws of the county alliance corporation;

(B) pays a fee to the county alliance as determined by the board; and

(C) meets any other requirement established by the board.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 506.102. WITHDRAWAL FROM COUNTY ALLIANCE. (a) A county may withdraw from a county alliance if all of the county's obligations and entitlements relating to the county alliance corporation have been properly settled.

(b) The county withdrawing from the county alliance may not receive any assets, including money or other property, of the county alliance corporation until the existence of the corporation is terminated as provided by Section 506.202.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 506.151. DISTRIBUTION OF NET EARNINGS. If the board of

directors of a county alliance corporation determines that sufficient provisions have been made to pay the corporation's expenses, bonds, and other obligations, any net earnings may be distributed among the counties in the county alliance as a percentage of the per capita contributions made by each of the counties during the corporation's existence.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER E. TERMINATION OF CORPORATION

Sec. 506.201. EFFECT OF WITHDRAWAL OF COUNTY. A county alliance corporation is not required to terminate its existence as a result of the withdrawal of a county from the county alliance if at least two counties remain in the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 506.202. DISTRIBUTION OF ASSETS. (a) Subject to Subsection (b), on termination of the existence of a county alliance corporation, any assets of the corporation remaining after all the corporation's obligations have been met shall be distributed among the counties in the county alliance as a percentage of the per capita contributions made by each of the counties during the corporation's existence.

(b) A county that withdraws from a county alliance is entitled to receive a distribution under Subsection (a) that is reduced by one percent for each year the corporation operated without the county's membership in the alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

CHAPTER 507. SPACEPORT DEVELOPMENT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 507.001. DEFINITIONS. In this chapter:

(1) "Authorizing entity" means the political subdivision or

combination of political subdivisions that authorizes the creation of a spaceport development corporation as permitted under Section 507.003.

(2) "Spacecraft" means any object and its components designed to be launched for operations in a suborbital trajectory, in earth orbit, or in outer space. The term includes a satellite, a payload, an object carrying crew or a space flight participant, and any subcomponents of the launch vehicle or reentry vehicle specifically designed or adapted for that object.

(3) "Spaceport" includes:

(A) an area intended to be used for space flight activities, as defined by Section 100A.001, Civil Practice and Remedies Code;

(B) a spaceport building or facility located in an area reasonably proximate to a launch vehicle, reentry vehicle, or spacecraft launching or landing area;

(C) an area reasonably proximate to a launch vehicle, reentry vehicle, or spacecraft launching or landing area that is intended for use for a spaceport building or facility; and

(D) a right-of-way related to a launch vehicle, reentry vehicle, or spacecraft launching or landing area, building, facility, or other area that is reasonably proximate to a launching or landing area.

(4) "Spaceport development corporation" means a corporation governed by this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 953 (H.B. 1791), Sec. 4, eff. September 1, 2013.

Sec. 507.002. SCOPE OF PROJECT. For purposes of a spaceport development corporation, in addition to land, buildings, equipment, facilities, and improvements that constitute a project under Chapter 501, "project" includes the land, buildings, equipment, facilities, and improvements found by the board of directors of the corporation to:

(1) be required or suitable for use for the promotion or

development of a spaceport, related area transportation facilities, automobile parking facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance the spaceport or another item specified by this subdivision;

(2) promote or develop new or expanded business enterprises relating to a spaceport;

(3) promote or develop educational programs or job training relating to a spaceport; or

(4) be required or suitable for the promotion of development and expansion of affordable housing, as defined by 42 U.S.C. Section 12745, relating to a spaceport.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.003. AUTHORITY TO CREATE CORPORATION BY ELIGIBLE ENTITIES. The following entities are eligible to authorize the creation under this subtitle of a spaceport development corporation:

(1) a county;

(2) a municipality with a population of two million or more; or

(3) a combination of one or more municipalities and one or more counties.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 120 (H.B. 303), Sec. 1, eff. May 23, 2019.

Sec. 507.004. CONTENTS OF CERTIFICATE OF FORMATION. The certificate of formation of a spaceport development corporation:

(1) must state that the corporation is governed by this chapter; and

(2) may include in the corporation's name any word or phrase the authorizing entity specifies.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.005. CORPORATION NOT SUBJECT TO CERTAIN PROVISIONS. Sections 501.203, 501.205, 501.251-254, 501.255(a) and (b), 501.256, and 501.257 do not apply to a corporation under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.006. CONFLICTS OF LAW. To the extent of any conflict between this chapter and any other provision of this subtitle, this chapter prevails.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER B. GOVERNANCE OF CORPORATION

Sec. 507.051. BOARD OF DIRECTORS. (a) A spaceport development corporation is governed by a board of seven directors.

(b) If a single county authorizes the creation of a spaceport development corporation, the commissioners court of the county shall appoint the directors of the corporation. If a single municipality authorizes the creation of a spaceport development corporation under Section 507.003(2), the governing body of the municipality shall appoint the directors of the corporation.

(b-1) If more than one political subdivision authorizes the creation of a spaceport development corporation, the governing bodies of the political subdivisions shall appoint the directors through written agreement between the governing bodies.

(c) Each director serves a two-year term that expires June 1 of each odd-numbered year, except that three or four of the initial directors may serve a one-year term so that the terms may be staggered in the future.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 120 (H.B. 303), Sec. 2, eff. May 23, 2019.

Sec. 507.052. OFFICERS. (a) The board of directors of a spaceport development corporation shall elect a presiding officer from among its members.

(b) The board of directors by rule may provide for the election of other officers.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.053. MEETINGS. The board of directors of a spaceport development corporation shall meet:

(1) at least once every three months; and

(2) at the call of the presiding officer or a majority of the directors.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 507.101. GENERAL POWERS AND LIMITATIONS OF CORPORATION. A spaceport development corporation:

(1) has the powers granted by this chapter and by other chapters of this subtitle; and

(2) is subject to the limitations of a corporation authorized to be created under another provision of this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.102. ACQUISITION, MORTGAGE, OR DISPOSAL OF PROPERTY. (a) A spaceport development corporation may acquire property but only if a site in the territory of the authorizing entity has been designated as the site for a spaceport.

(b) A spaceport development corporation may:

(1) mortgage property; or

(2) convey or otherwise dispose of property.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.103. EMINENT DOMAIN. (a) This section does not apply to a spaceport development corporation whose authorizing entity is a single municipality with a population of two million or more.

(a-1) A spaceport development corporation may exercise the power of eminent domain to acquire property for a spaceport, including the power to:

(1) acquire fee title in land condemned;

(2) relocate or modify a railroad, utility line, pipeline, or other facility that may interfere with a spaceport; or

(3) impose a reasonable restriction on using the surface of the property for mineral development if the corporation does not own the mineral rights.

(b) Before exercising the power of eminent domain under this chapter, a spaceport development corporation must obtain a resolution approving the proposed condemnation from the governing body of a county or municipality in which the property is located. For purposes of this chapter, territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

(c) Chapter 21, Property Code, governs the exercise of the power of eminent domain by a spaceport development corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 120 (H.B. 303), Sec. 3, eff. May 23, 2019.

Sec. 507.104. CONTRACTS. (a) Except as provided by Subsection (b), a spaceport development corporation may enter into:

(1) an agreement with any person; or

(2) an interlocal contract under Chapter 791, Government Code.

(b) A spaceport development corporation may not enter into a contract to operate a spaceport unless the agreement provides that

the person contracting with the corporation assumes the corporation's liability for a cause of action arising from environmental damage.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.105. GENERAL POWERS RELATED TO FINANCES. A spaceport development corporation may:

(1) impose a charge for using a spaceport or a service the corporation provides;

(2) borrow money;

(3) loan money to fund a spaceport; and

(4) invest money under the corporation's control in an investment authorized by Chapter 2256, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.106. DONATIONS, GRANTS, AND LOANS. A spaceport development corporation may accept a donation, grant, or loan from any person.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.107. AUTHORITY TO SUE AND BE SUED. A spaceport development corporation may sue and be sued.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.108. HIGHER EDUCATION COURSES AND DEGREE PROGRAMS. (a) The board of directors of a spaceport development corporation by rule may develop a plan for higher education courses and degree programs to be offered at or near a spaceport.

(b) A course or degree program offered under this section must be related to the purposes of this chapter.

(c) The aerospace and aviation office of the Texas Economic Development and Tourism Office and the Texas Higher Education Coordinating Board shall cooperate with and advise the board of directors in carrying out this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER D. BONDS

Sec. 507.151. AUTHORITY TO ISSUE BONDS; APPROVAL. (a) A spaceport development corporation may issue bonds only if a site in the territory of the authorizing entity has been designated as the site for a spaceport.

(b) Bonds issued under this chapter must be approved by the governing body of each political subdivision that authorized creation of the spaceport development corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.152. BONDS NOT OBLIGATION OF CERTAIN ENTITIES. Bonds issued by a spaceport development corporation are not an obligation or a pledge of the faith and credit of this state, a political subdivision that authorized the creation of the corporation, or another political subdivision or agency of this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.153. BOND REQUIREMENTS. Bonds issued under this chapter must:

(1) be payable only from the revenue of a spaceport developed by the spaceport development corporation issuing the bonds;

(2) mature not later than 50 years after the date of issuance; and

(3) state on their faces that the bonds are not an obligation of the State of Texas or a political subdivision of this state, other than the corporation that issued the bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER E. TAXES

Sec. 507.201. EXEMPTION FROM CERTAIN TAXES. (a) The property, income, and operations of a spaceport development corporation are exempt from taxes imposed by this state or a political subdivision of this state.

(b) Tangible personal property located in the spaceport, such as a spacecraft or other property necessary to launch the spacecraft, is exempt from ad valorem taxation.

(c) Chapter 151, Tax Code, does not apply to tangible personal property purchased by a person for use in a spaceport.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 507.202. PAYMENT IN LIEU OF AD VALOREM TAXES. In lieu of taxes, a spaceport development corporation shall pay to each political subdivision of this state in which land owned by the corporation is located an amount equal to the amount of ad valorem taxes that would be imposed on that land if the land were privately owned.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

TITLE 13. WATER AND UTILITIES

SUBTITLE A. MUNICIPAL WATER AND UTILITIES

CHAPTER 551. WATER CONTROL BY MUNICIPALITIES

Sec. 551.001. CONTROL OF HARMFUL EXCESS OF WATER BY MUNICIPALITY WITH POPULATION OF 150,001 TO 239,999. (a) In this section, "water control body" means a municipality, county, levee district, water control and improvement district, water improvement district, navigation district, or other body politic created under the laws of the state with statutory powers concerned with the control of harmful excess of water.

(b) To change or abate by mechanical means a harmful excess of

water, either constant or periodic, that threatens life and property within its boundaries, a municipality with a population of 150,001 to 239,999 may:

(1) straighten, widen, levee, restrain, or otherwise control or improve a river, creek, bayou, stream, or other body of water;

(2) grade or fill land; or

(3) take other appropriate actions.

(c) The municipality may pay for an improvement, or a part of an improvement, under Subsection (b) in the manner provided by Section 372.041 or any other manner not expressly prohibited by the charter of the municipality.

(d) If an improvement under Subsection (b) is provided or operated by a water control body other than the municipality, the municipality may contribute to the payment of the cost, replacement, alteration, extension, maintenance, and operation of the improvement.

(e) If an improvement under Subsection (b) is provided and operated by the municipality, the municipality may solicit and receive from another water control body a contribution for the payment of the cost, alteration, enlargement, maintenance, and operation of the improvement.

(f) The municipality may purchase or otherwise acquire and take over any improvement or the maintenance or operation of any improvement and may contract to assume an outstanding bond debt or other debt secured by lien if:

(1) the debt was incurred to provide for the improvement; and

(2) the interest on the debt is not greater than six percent a year.

(g) The municipality may not, in purchasing or otherwise acquiring an improvement or the right to maintain and control property of a levee or improvement district, assume the bonded indebtedness outstanding and owing by the district unless the municipality is authorized to do so at an election at which the qualified voters of the municipality approve the assumption of indebtedness or maintenance.

(h) Subsection (f) supersedes any provision in a municipal charter that is not in conformity with that subsection. Subsection (f) does not authorize an increase in the municipal debt limit fixed by law.

(i) The municipality may contract with a water control body to perform, jointly with a water control body or independently, an action authorized by this section.

(j) Water control bodies otherwise having appropriate powers may use this section and contract with one another to accomplish the purposes of this section.

(k) A water control body, under contract with a municipality having power under this section, may provide money required to construct, maintain, and operate an improvement under this section, either separately or jointly under contract with another water control body, in a manner not expressly prohibited by the charter of the municipality or the statute creating the municipality or the water control body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 401.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.002. PROTECTION OF STREAMS AND WATERSHEDS BY HOME-RULE MUNICIPALITY. (a) A home-rule municipality may prohibit the pollution or degradation of and may police a stream, drain, recharge feature, recharge area, or tributary that may constitute or recharge the source of water supply of any municipality.

(b) A home-rule municipality may provide for the protection of and may police any watersheds.

(c) The authority granted by this section may be exercised inside the municipality's boundaries or inside the municipality's extraterritorial jurisdiction or outside the municipality's extraterritorial jurisdiction only if required to meet other state or federal requirements. The authority granted by this section for the protection of recharge, recharge areas, or recharge features of groundwater aquifers may be exercised outside the municipality's boundaries and within the extraterritorial jurisdiction provided the municipality exercising such authority has a population greater than 750,000 and the groundwater constitutes more than 75 percent of the municipality's source of water supply.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 4.47, eff. Sept. 1, 1997.

Renumbered from Local Government Code, Section 401.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.003. NOTICE OF MUNICIPAL DEVELOPMENT REGULATIONS APPLYING TO WATERSHEDS AND FLOOD-PRONE AREAS. (a) The governing body of a home-rule municipality that by resolution, ordinance, or other proceeding regulates and controls the use and development of any watersheds, flood-prone areas, and impoundment areas for flood control and preservation shall file a notice with the county clerk of each county in which the property subject to the regulation is situated.

(b) The notice required by this section must:

(1) be signed in the name of the municipality by its clerk, secretary, or mayor or other officer performing the duties of one of those officers;

(2) show that the governing body of the municipality by resolution, ordinance, or other proceeding has enacted regulations of the area; and

(3) give or attach the boundaries of the land subject to the regulation.

(c) A notice required by this section need not give details or be sworn to or acknowledged. The notice may be filed at any time.

(d) A county clerk with whom a notice is filed under this section shall record the notice in the records of deeds and shall index it in the name of the municipality.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.07(a), eff. Aug. 26, 1991.
Renumbered from Local Government Code, Section 401.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.004. PROTECTION OF PLAYA LAKES BY CERTAIN HOME-RULE MUNICIPALITIES. (a) In this section, "playa lake" means a natural saucer-like depression in the topography, typically having a clayey bottom that is normally located in an arid or semiarid part of the state and collects runoff from rain but is subject to rapid

evaporation. The term includes all areas within the basin projected to be inundated by pooled storm water runoff, as determined by an engineering analysis performed according to the specific requirements adopted by and in effect for a municipality.

(b) The governing body of a home-rule municipality with a population of 185,000 or more may regulate the filling of a playa lake within the municipality's extraterritorial jurisdiction as a means for the effective management of storm water runoff to prevent:

(1) harmful flooding; or

(2) excess surface water.

(c) A regulation adopted under this section may not:

(1) interfere with normal agricultural practices, including moving soil, berming for tail water reuse, plowing, seeding, cultivating, and harvesting for the production of food or fiber; or

(2) prohibit any practice or activity that does not decrease the water holding capacity of a playa lake.

Added by Acts 1999, 76th Leg., ch. 120, Sec. 1, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 401.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.005. RESTRICTION ON PUMPING, EXTRACTION, OR USE OF GROUNDWATER. (a) For the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality may regulate the pumping, extraction, or use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, to prevent the use of or contact with groundwater that presents an actual or potential threat to human health.

(b) For the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of municipal ordinances adopted under this section.

Added by Acts 2003, 78th Leg., ch. 731, Sec. 4, eff. Sept. 1, 2003. Renumbered from Local Government Code, Section 401.005 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(1), eff. April 1, 2009.

Sec. 551.006. IRRIGATION SYSTEMS. (a) A municipality with a population of 20,000 or more by ordinance shall require an installer of an irrigation system:

(1) to hold a license issued under Section 1903.251, Occupations Code; and

(2) to obtain a permit before installing a system within the territorial limits or extraterritorial jurisdiction of the municipality.

(b) The ordinance shall include minimum standards and specifications for designing, installing, and operating irrigation systems in accordance with Section 1903.053, Occupations Code, and any rules adopted by the Texas Commission on Environmental Quality under that section.

(c) A municipality may employ or contract with a licensed plumbing inspector or a licensed irrigation inspector to enforce the ordinance.

(d) A municipality may charge an installer of an irrigation system a fee for obtaining or renewing a permit under Subsection (a)(2). The municipality shall set the fee in an amount sufficient to enable the municipality to recover the cost of administering this section.

(e) This section does not apply to:

(1) an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code; or

(2) an irrigation system:

(A) used on or by an agricultural operation as defined by Section 251.002, Agriculture Code; or

(B) connected to a groundwater well used by the property owner for domestic use.

Added by Acts 2007, 80th Leg., R.S., Ch. 874 (H.B. 1656), Sec. 3, eff. June 15, 2007.
Transferred from Local Government Code, Section 401.006 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(66), eff. September 1, 2009.

Sec. 551.007. WATER CONSERVATION BY HOME-RULE MUNICIPALITY. A home-rule municipality may adopt and enforce ordinances requiring water conservation in the municipality and by customers of the

municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 1352 (H.B. 4), Sec. 12, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.31, eff. September 1, 2007.
Transferred from Local Government Code, Section 401.006 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(67), eff. September 1, 2009.

CHAPTER 552. MUNICIPAL UTILITIES
SUBCHAPTER A. PUBLIC UTILITY SYSTEMS IN GENERAL

Sec. 552.001. MUNICIPAL UTILITY SYSTEMS; GENERAL POWERS. (a) In this section, "utility system" means a water, sewer, gas, or electricity system.

(b) A municipality may purchase, construct, or operate a utility system inside or outside the municipal boundaries and may regulate the system in a manner that protects the interests of the municipality. The municipality may own land inside or outside its boundaries for these purposes.

(c) A municipality may extend the lines of its utility systems outside the municipal boundaries and may sell water, sewer, gas, or electric service to any person outside its boundaries. The municipality may contract with persons outside its boundaries to permit them to connect with those utility systems on terms the municipality considers to be in its best interest. This subsection does not authorize the extension of electric lines into the corporate limits of another municipality.

(d) A municipality that owns or operates a utility system may prescribe the kind of water or gas mains, sewer pipes, and electric appliances that may be used inside or outside the municipality. The municipality may inspect those facilities and appliances, require that they be kept in good condition at all times, and prescribe the necessary rules, which may include penalties, concerning them.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.002. CERTAIN PUBLIC SERVICES AND UTILITY SYSTEMS IN HOME-RULE MUNICIPALITY. (a) In this section, "public service" includes a public telephone system, street railway system, fertilizing plant, slaughterhouse, municipal railway terminal, dock, wharf, ferry, ferry landing, or shipping facility, including loading and unloading devices.

(b) A home-rule municipality may buy, own, construct inside or outside the municipal limits, and maintain and operate a gas system, electric lighting plant, sewage plant, or other public service or public utility and may require and receive compensation for services furnished for private purposes or otherwise. The municipality may use eminent domain authority to appropriate real property, rights-of-way, or other property as necessary to efficiently carry out those objects. The municipality may condemn the property of any person that conducts such a business or utility service for the purpose of operating and maintaining the public service or public utility and distributing the utility services in the municipality. In its charter, the municipality may adopt rules it considers advisable for the acquisition or operation of the public service or public utility.

(c) The municipality may manufacture its own electricity, gas, or anything else needed or used by the public. It may purchase, and make contracts for the purchase of, gas, electricity, oil, or any other commodity or article used by the public and may sell it to the public on terms as provided by the municipal charter, ordinance, or resolution of the governing body of the municipally owned utility.

(d) The municipality may require water works corporations, gas companies, street car companies, telephone companies, telegraph companies, electric companies, or other persons who hold a franchise from the municipality to extend their services to territory as required by the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 405, Sec. 44, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 402.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.0025. CONNECTION, DISCONNECTION, AND LIABILITY FOR MUNICIPAL UTILITY SERVICES. (a) A municipality may not require a customer to pay for utility service previously furnished to another customer at the same service connection as a condition of connecting or continuing service.

(b) A municipality may not require a customer's utility bill to be guaranteed by a third party as a condition of connecting or continuing service.

(c) A municipality may require varying utility deposits for customers as it deems appropriate in each case.

(d) Except as provided in Subsections (e) and (f), a municipality may by ordinance impose a lien against an owner's property, unless it is a homestead as protected by the Texas Constitution, for delinquent bills for municipal utility service to the property.

(e) The municipality's lien shall not apply to bills for service connected in a tenant's name after notice by the property owner to the municipality that the property is rental property.

(f) The municipality's lien shall not apply to bills for service connected in a tenant's name prior to the effective date of the ordinance imposing the lien. This subsection shall not apply to ordinances adopted prior to the effective date of this Act.

(g) The municipality's lien shall be perfected by recording in the real property records of the county where the property is located a notice of lien containing a legal description of the property and the utility's account number for the delinquent charges. The municipality's lien may include penalties, interest, and collection costs.

(h) The municipality's lien is inferior to a bona fide mortgage lien that is recorded before the recording of the municipality's lien in the real property records of the county where the property is located. The municipality's lien is superior to all other liens, including previously recorded judgment liens and any liens recorded after the municipality's lien.

Added by Acts 1989, 71st Leg., ch. 304, Sec. 1, eff. Aug. 28, 1989. Renumbered from Local Government Code, Section 402.0025 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.003. ACQUISITION OF EXISTING PUBLIC UTILITY; PAYMENT IN LIEU OF SCHOOL TAXES. (a) If, after May 8, 1943, a municipality acquires an existing public utility, the property of which is subject to taxation by a school district, and the municipality finances the purchase of the utility by issuing revenue bonds, the governing body of the municipality may expressly provide, in an indenture of trust, mortgage, or other lien instrument that evidences the obligation of the municipality for the purchase price, for an annual payment from the income of the utility of an amount equal to the average annual taxes assessed by the school district on the properties of the utility for the five years preceding the year in which the utility is acquired.

(b) The school board trustees and the governing body of the municipality may agree on an annual payment of a sum in lieu of school taxes. The sum must be adequate and just under the circumstances of the case considering the school district's needs.

(c) The obligation of the municipality to make the payment in lieu of taxes is a proper item of municipal operating expenses that, with other operating expenses, is a first lien and charge against the income of the encumbered utility.

(d) The obligation of the municipality to make the payment in lieu of taxes as provided in the encumbrance agreement is an "expense or obligation" of the utility system as that term is used in statutes authorizing the acquisition of a public utility and the issuance of revenue bonds for the purchase of the utility. The obligation extends to and binds any municipality that purchases or otherwise acquires an existing public utility in accordance with the terms of the encumbrance agreement or mutual agreements as authorized under Subsections (a) and (b).

(e) The obligation of the municipality as fixed in the indenture or encumbrance is not impaired, affected, modified, or released by the release or discharge of the encumbrance, and, as long as the municipality owns and operates the public utility, it shall continue to pay to the school district on an annual basis from the revenues of the utility an amount equal to the average annual taxes assessed in behalf of the school district on the properties of the utility for the five years preceding the year in which the utility is acquired by the municipality. Alternatively, after the release or discharge of the encumbrance, the school board trustees and the governing body of the municipality may agree to provide for a payment

in lieu of school taxes as provided by Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER B. ACQUISITION OF INTERESTS FOR DRAINAGE, SEWAGE, OR WATER SUPPLY PURPOSES

Sec. 552.011. USE OF EMINENT DOMAIN POWER. A municipality that owns its water system may exercise the power of eminent domain to condemn private property located inside or outside the municipal limits to acquire rights-of-way for digging or excavating canals or for laying water mains or other pipelines to bring water into the municipality for public use.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.011 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.012. MUNICIPALITIES IN OR CONTRACTING WITH A WATER DISTRICT. (a) In this section, "water district" means a municipal water authority or other district created under Article XVI, Section 59, of the Texas Constitution.

(b) This section applies to a municipality that is located in a water district or that has a contract with a water district for a supply of untreated water. This section is cumulative of municipal charter provisions relating to the same subject but takes precedence over a municipal charter provision to the extent of any conflict.

(c) The municipality, acting alone or with one or more other municipalities to which this section applies, may:

(1) receive or acquire by gift, dedication, purchase, or condemnation any property in this state, located inside or outside the municipal boundaries, to build or acquire:

(A) water purification and treatment facilities;

(B) reservoirs; or

(C) pipelines and any type of water transportation facilities considered necessary to provide the municipality or

municipalities with fresh water for municipal, domestic, and industrial purposes; and

(2) construct or otherwise acquire any facility described by Subdivision (1).

(d) Chapter 21, Property Code, applies to a condemnation proceeding brought under this section.

(e) The municipality or municipalities, individually or jointly, may operate, maintain, and improve, and may sell or lease in whole or in part, property acquired or constructed under this section and any improvements on that property. Municipalities may individually or jointly control and operate jointly owned facilities by contracting with one another on mutually agreeable terms.

(f) The governing body of a municipality providing water treatment facilities under this section may:

(1) issue negotiable municipal bonds or warrants for that purpose and impose taxes to provide the interest and sinking fund for those bonds or warrants in the manner provided by law for the issuance of tax supported bonds and warrants by the municipality; or

(2) issue revenue bonds supported by the revenues of one or more of the municipal utilities as provided by Chapter 1502, Government Code.

(g) The governing body of a municipality that acquires facilities or property under this section may impose reasonable charges for the use of the facilities or property. In the case of jointly operated facilities, the governing bodies of the municipalities involved may impose the charges by agreement.

(h) A municipality or a combination of municipalities acting under this section may contract with any other municipality to supply the other municipality with services from the facilities or improvements acquired or constructed under this section. By ordinance, the governing bodies of the municipalities providing the services may prescribe and enforce rules relating to the use of the improvements and facilities.

(i) An election is not required for approval of any contract relating to water treatment under this section.

(j) In addition to taxes for the interest and sinking fund of bonds or warrants issued under this section, the governing body of the municipality separately or jointly acquiring improvements or facilities under this section may impose taxes for the improvement, operation, and maintenance of the improvements and facilities. Those

taxes are subject to limits on taxation imposed by the constitution and laws of this state and by the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.346, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.012 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.013. WATER SYSTEM IN MUNICIPALITIES WITH POPULATION OF MORE THAN 1,000. (a) This section applies to a municipality with a population of more than 1,000 that owns and operates a water system for its residents for fire protection or domestic consumption. Except as otherwise provided by this section, a municipality's authority under this section is in addition to authority granted by municipal charter.

(b) The municipality may acquire any interest, including a fee simple interest, in publicly or privately owned property, including riparian rights, located anywhere in the state. The municipality may acquire the interest by purchase, gift, devise, or eminent domain.

(c) To furnish an adequate and wholesome supply of water for the residents, the municipality may exercise the power of eminent domain to acquire and condemn public or private property to extend, improve, or enlarge its water system, including water supply reservoirs, riparian rights, standpipes, and watersheds, to construct water supply reservoirs, wells or artesian wells, or dams, and to construct or establish necessary facilities or appurtenances.

(d) For purposes of this section, the municipality has the same powers relating to eminent domain conferred by statute on water improvement districts or water control and preservation districts or conferred by general law on municipalities.

(e) The municipality may acquire fee simple title to property under this section if the resolution ordering condemnation proceedings specifies that such an interest is to be acquired.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.013 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.014. CONTRACTS WITH WATER DISTRICTS OR NONPROFIT CORPORATIONS. (a) In this section:

(1) "Project" means a water supply or treatment system, a water distribution system, a sanitary sewage collection or treatment system, works or improvements necessary for drainage of land, recreational facilities, roads and improvements in aid of roads, or facilities to provide firefighting services.

(2) "Water district" means a district created under Article XVI, Section 59, of the Texas Constitution.

(b) A municipality may enter into a contract with a water district or with a corporation organized to be operated without profit under which the district or corporation will acquire for the benefit of and convey to the municipality, either separately or together, one or more projects. In connection with the acquisition, the district or corporation shall improve, enlarge, or extend the existing municipal facilities as provided by the contract.

(c) If the contract provides that the municipality assumes ownership of the project on completion of construction or at the time that all debt incurred by the district or corporation in the acquisition, construction, improvement, or extension of the project is paid in full, the municipality may make payments to the district or corporation for project services to part or all of the residents of the municipality. The contract may provide for purchase of the project by the municipality through periodic payments to the district or corporation in amounts that, together with the net income of the district or corporation, are sufficient to pay the principal of and interest on the bonds of the district or corporation as they become due. The contract may provide:

(1) that any payments due under this section are payable from and are secured by a pledge of a specified part of the revenues of the municipality, including revenues from municipal sales and use taxes;

(2) for the levying of a tax to make payments due under this section; or

(3) that the payments due under this section be made from a combination of revenues and taxes.

(d) The contract may provide that the district or corporation may use the streets, alleys, and other public ways and places of the municipality for project purposes for a period that ends at the time the indebtedness of the district or corporation is paid in full and

the municipality acquires title to the project in accordance with this section.

(e) The contract may provide for the operation of the project by the municipality, and, if so authorized, the municipality may operate the project.

(f) A contract under this section must be authorized by a majority vote of the governing body of the municipality.

(g) This section does not authorize a water district or corporation described by Subsection (b) to participate in a project that the water district or corporation is not authorized to participate in under other law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.014 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 3, eff. September 1, 2013.

Sec. 552.015. WATER SUPPLY IN TYPE A GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type A general-law municipality may provide for a municipal water supply system.

(b) The municipality may establish and regulate public wells, pumps, cisterns, hydrants, and reservoirs located inside or outside the municipality, including in the municipality's streets, for the convenience of its residents, for firefighting purposes, and for the prevention of unnecessary waste of water.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.015 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.016. SALE OR LEASE OF WATER SYSTEM BY TYPE A GENERAL-LAW MUNICIPALITY. (a) A Type A general-law municipality may not sell or lease a water system and plant owned by the municipality unless the question of the sale or lease is first approved by a majority of the qualified voters of the municipality who vote on the

question at a referendum. The governing body of the municipality may provide for submission of the question at a general or special election.

(b) Before the 20th day before the date of the election, the proposed lease or sales agreement must be plainly set out in the form of an ordinance or contract and must be filed in the office of the secretary or clerk of the municipality, where it shall be available for public inspection at all times.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.016 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.017. WATER SYSTEMS IN HOME-RULE MUNICIPALITIES. (a) A home-rule municipality may exercise the exclusive right to own, construct, and operate a water system for the use of the municipality and its residents. The municipality may regulate the system and may prescribe rates for the water furnished.

(b) The municipality may acquire by purchase, donation, or other means suitable land inside or outside the municipality for construction of the system, including any necessary rights-of-way.

(c) The municipality may take the necessary action to operate and maintain the system and to require water customers to pay charges imposed for the water furnished.

(d) The municipality may create, from revenue received from operating the water system, a separate fund dedicated solely to extending, operating, maintaining, repairing, and improving the water system. This revenue may be pledged for paying the principal of and providing an interest and sinking fund on bonds issued for these purposes, subject to applicable regulations in the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 304, Sec. 2, eff. Aug. 28, 1989. Renumbered from Local Government Code, Section 402.017 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.018. MUNICIPAL CONTRACT WITH PRIVATE ENTITY. (a) A

municipality that owns and operates its water distribution system may contract with an individual, firm, or corporation that operates without profit to make available for delivery to and use by the municipality all or part of the raw or treated water to be used for the municipal water distribution system. The service to be provided by the supplier may include the holding of water in reserve to serve needs of the municipality, and charges to the municipality under the contract may include compensation for this service.

(b) The contract may be for any duration to which the parties agree and may provide for renewal and extension.

(c) Contractual payments required solely from municipal water system revenue are an operating expense of that system. The municipality shall set its rates and charges to users of the municipal water system at a level sufficient to pay the maintenance and operating expenses of that system as provided by Section 1502.057, Government Code, and to provide for payment of principal of and interest on any revenue bonds of the municipality payable from water revenue.

(d) If a contract with a term of more than one year obligates the municipality to pay the consideration from tax revenue, involves the leasing to the supplier of a major part of an existing water production or supply facility belonging to the municipality or involves the right to operate a major part of such a facility, or restricts the municipality from obtaining water from another supplier, the contract is not effective unless approved or authorized at an election on the question.

(e) If Subsection (d) is not applicable, an election is not required. The governing body of the municipality may, however, order an election on the question before approving the contract.

(f) An election under this section shall be held to the extent practicable in the same manner as an election for the issuance of municipal bonds under Chapter 1251, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.347, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.018 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.019. CONTRACT WITH WATER IMPROVEMENT DISTRICT OR WATER CONTROL AND IMPROVEMENT DISTRICT. (a) A municipality may contract with a water improvement district or water control and improvement district created under Article XVI, Section 59, of the Texas Constitution for the supplying of water to the municipality. The governing body of the municipality and the board of directors of the district may provide for any duration for the contract that does not exceed 30 years, except that they may provide for the contract to continue in effect until the repayment of all warrants, notes, or bonds issued by the district to acquire facilities necessary or convenient for the district to supply water to the municipality.

(b) The municipality shall pay for water supplied under the contract from water system revenues of the municipality. Payment may be secured by an irrevocable pledge of and a first lien on those revenues. The district may not demand payment from tax revenue.

(c) A contract under this section is not binding until approved by a majority of the qualified voters of the municipality who vote on the question at an election held for the purpose. The governing body of the municipality may order the election. Notice of the election must be published once each week for two consecutive weeks in a newspaper of general circulation published in the municipality, with the first publication occurring before the 10th day before the date of the election. If such a newspaper is not published in the municipality, notice of the election must be posted at each election precinct in the municipality and at the city hall. The notice need not set out the full text of the contract or detail its provisions. During the 10-day period preceding the date of the election, the proposed contract shall be on file at the office of the municipal secretary and available for public inspection. If the election results in approval of the contract, the contract takes effect immediately; otherwise the contract is ineffective.

(d) As is necessary or convenient to supply water under a contract made under this section, a district may:

(1) construct or otherwise acquire and equip canals, reservoirs, basins, pipelines, conduits, filtration and aeration plants, and other equipment and supplies; and

(2) acquire property by purchase, eminent domain, or other means.

(e) A contracting district may issue warrants, notes, or bonds for the acquisition of facilities necessary or convenient for

supplying water under the contract. The district may secure those evidences of indebtedness by a pledge of revenues to be derived under the contract under this section. With voter approval, the district may issue bonds for this purpose secured by taxes or a combination of taxes and contract revenues.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.019 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.020. CONTRACT WITH WATER DISTRICT. (a) In this section, "water district" means a district or authority created under Article XVI, Section 59, of the Texas Constitution.

(b) A municipality and a water district by contract may provide for the district to supply water to the municipality. By contract, the municipality and district may also provide for:

(1) the lease of the municipality's water production, water supply, and water supply facilities to the district;

(2) the district to operate the municipality's water production, water supply, and water supply facilities; or

(3) the municipality to operate the district's water production, water supply, and water supply facilities.

(c) A contract under this section may prohibit the municipality from obtaining water from sources other than the district, subject to any exceptions that the contract may provide.

(d) The contract may be on any terms and for any duration to which the parties agree and may provide that it continues in effect as long as any bonds of the district specified in the contract, including bonds issued to refund them, remain unpaid.

(e) A contract under this section is subject to the district's statutory or contractual duty to periodically revise the rate charged for water sold or services rendered by the district to the municipality under the contract so that the net revenues of the district will be sufficient to allow the district to pay its operation and maintenance expenses and the principal of and interest on the bonds secured by the contract to the extent provided by the resolution authorizing the bonds. Payments by the municipality under the contract are an operating expense of the municipal water system.

(f) A municipality may not contract under this section without first obtaining the approval of a majority of the qualified voters of the municipality who vote on the question at an election held for the purpose. The governing body of the municipality shall order the election. The governing body may submit to the voters the question of authorizing the municipality to make a water supply contract, a lease and water supply contract, or both. Both issues may be submitted as a single proposition. Notice of the election must be published once each week for two consecutive weeks in a newspaper of general circulation published in the municipality, with the first publication occurring before the 14th day before the date of the election. If such a newspaper is not published in the municipality, notice of the election must be posted at the city hall and two other public places in the municipality. If the election result is favorable, the governing body shall enact an ordinance prescribing the form and substance of the lease or contract or both, as the case may be, and directing the mayor or mayor pro tempore to sign it. The ordinance may be enacted by a vote of a majority of the members of the governing body on one reading and at the same meeting at which it is introduced.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.020 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.0205. REVENUE BONDS TO PAY FOR DISTRICT SERVICES UNDER CONTRACT. (a) In this section, "district" has the meaning assigned by Section 49.001, Water Code.

(b) If a district contracts with a municipality to provide all or part of the water or wastewater services to the municipality, the municipality may issue bonds payable from the revenues of its water and wastewater system to provide funds to make payments owed by the municipality to the district under the contract.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 36, eff. June 17, 2001. Renumbered from Local Government Code, Section 402.0205 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.021. CONTRACT BETWEEN DISTRICT AND MUNICIPALITY WITH POPULATION OF MORE THAN 900,000. (a) In this section, "district" means a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution.

(b) A municipality with a population of more than 900,000 that owns and operates a municipal water system may:

(1) enter into a contract or joint enterprise with a district for the conveyance, transportation, and distribution of water for or on behalf of the municipality; or

(2) contract to sell water to a district and repurchase all or part of the water at one or more designated points on the district's conveyance, transportation, and distribution system.

(c) A contract under Subsection (b) may provide that municipal payments to the district under the contract:

(1) are an operating expense of the municipal water system; or

(2) are payable from surplus or other funds of the municipal water system, from the revenues of specified municipal water sales contracts, or from other sources.

(d) If the contract under Subsection (b) obligates the municipality to pay any of the consideration from tax revenue, it must first be approved at an election ordered and conducted in the same manner as a bond election.

(e) A contract under Subsection (b) may be made for any period not to exceed 40 years and may provide that it continues in effect until payment of:

(1) all bonds issued by the district to finance conveyance, transportation, or distribution facilities, or the extension, enlargement, or improvement of those facilities; and

(2) any bonds issued to refund bonds described by Subdivision (1).

(f) A municipality covered by this section may contract for the sale of water to industrial and commercial customers or municipal corporations or political subdivisions as provided by ordinance. A contract under this subsection may not be for a term longer than 40 years.

(g) A municipality electing to make a contract under this section is governed solely by this section regardless of another statute, charter provision, or ordinance to the contrary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.021 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.022. CONTRACTS WITH CERTAIN SPECIAL DISTRICTS. (a) In this section, "special district" means a district that derives its powers from Article XVI, Section 59, of the Texas Constitution and that has statutory authority to contract with municipalities for the transportation and disposal of sewage.

(b) A municipality located in whole or in part in a county containing a special district, and acting under an ordinance enacted by its governing body, may enter into a contract with the district that may provide:

(1) that the district will make available to the municipality and provide sewage transportation, sewage treatment and disposal services, or any one or more of those services;

(2) for the provision of standby service; or

(3) for use by the district of sewage transportation, treatment, and disposal facilities owned by the municipality.

(c) The contract may be on terms and for a duration agreeable to the parties and may provide that it continue in effect until payment of:

(1) bonds issued by the district and specified in the contract; and

(2) any bonds issued to refund bonds described by Subdivision (1).

(d) The municipality is entitled to continued performance of services covered by the contract after the amortization of the district's investment in the facilities during the useful life of the facilities on payment of charges reduced to take into account the amortization.

(e) Except as provided by Subsection (f), revenue received by a special district from a municipality under a contract made under this section may be used only for:

(1) payment of principal of and interest on, and providing reserve for, bonds issued by the district to finance the facilities covered by the contract; and

(2) operating and maintenance expenses related to the

contract, including legal, administrative, and management supervision fees and expenses.

(f) The contract may provide that a designated part of any surplus accumulated for the benefit of the municipality may be spent by the district to enlarge or improve facilities of the district used to serve the municipality.

(g) Payments by a municipality to a district shall be made from revenues of the municipality's water system, sanitary sewer system, or both of those systems, or of the municipality's combined water and sanitary sewer system, as specified in the contract. Those payments are an operating expense of the system whose revenues are to be so applied. Except as provided by Subsection (h), neither the district nor a holder of the bonds of the district may demand payment of the municipality's obligations out of funds raised or to be raised by taxation.

(h) A municipality may pledge its taxing power in a contract made under this section if a majority of the qualified voters of the municipality who vote on the question at an election vote in favor of the proposed contract and the levy of property taxes to pay the municipality's obligations to the authority under the contract. The election shall be conducted in substantially the same manner as a municipal bond election held under Chapter 1251, Government Code. If the voters approve the contract and tax levy:

(1) the municipal governing body shall enact an ordinance prescribing the form and substance of the contract and directing the proper officers of the municipality to sign it; and

(2) once the contract has been executed, the municipality's obligations to the authority under the contract are an obligation of the municipality's taxing power, but may be paid, as provided by the contract, from taxes and revenues from which payments are required by Subsection (g).

(i) A municipality that has executed a contract under this section that is payable in whole or in part from revenue of the municipality's water or sanitary sewer system, or both of those systems, or the municipality's combined water and sewer system shall set and periodically adjust rates charged to users so that at all times that revenue is sufficient to pay:

(1) the expenses of operating and maintaining each system in accordance with current standards and requirements for preventing stream pollution;

(2) obligations of the municipality under the contract; and

(3) all obligations of the municipality relating to revenue bonds issued from the system before or after execution of the contract under this section.

(j) The contract may require the use of consulting engineers and financial experts to advise the municipality as to when service rates are to be adjusted.

(k) A district may render services concurrently to more than one municipality through construction and operation of a plant serving multiple municipalities, with the cost for the services to be allocated among the participating municipalities as provided by one or more contracts made under this section. All the compensation to be received by and all the security pledged to the district by all municipalities is available to the authority to secure bonds issued to provide necessary construction funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.348, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.022 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.023. CONTRACT BETWEEN MUNICIPALITY AND TRINITY RIVER AUTHORITY. (a) In this section, "sewage disposal services" includes sewage transportation, treatment, and disposal.

(b) A municipality that is located in whole or in part inside the boundaries of the Trinity River Authority or located in whole or in part in the watershed of the Trinity River may, by ordinance, contract with the authority for the authority to provide the municipality with sewage disposal services. The contract may contain a provision for standby service. The contract may be made on terms and for a duration agreeable to the parties and may provide that it will continue in effect as long as specified bonds of the authority, including refunding bonds, remain unpaid. The municipality is entitled to the continued performance of services covered by the contract after amortization of the authority's investment in facilities during the useful life of the facilities, on payment of charges reduced to take the amortization into account.

(c) Except as provided by Subsection (d), revenue received by the authority from a municipality under a contract made under this section may be used only for:

(1) payment of principal of and interest on, and providing reserves for, bonds issued by the authority to finance facilities for sewage disposal services; and

(2) operation and maintenance expenses related to the contract, including legal, administrative, and management supervision fees and expenses.

(d) The authority and a municipality may provide in the contract that a designated part of any surplus revenue accumulated for the benefit of the municipality may be spent by the authority to enlarge or improve facilities of the authority used especially to serve that municipality.

(e) The authority becomes owner of sewage accepted by it for transportation and treatment and is solely responsible for the proper treatment and disposal of the sewage and the effluent. A contracting municipality is immune from liability for any improper treatment or disposal of the sewage or effluent. A municipality is not entitled to credit of any type, either in the exchange of water, money, or other consideration, for any effluent delivered to the authority. Such an exchange or sale may not be made a condition to any contract under this section.

(f) Payments by a municipality under a contract shall be made from revenues of the municipality's water system, sanitary sewer system, or both of those systems, or of the municipality's combined water and sanitary sewer system, as specified in the contract. Those payments are an operating expense of the system whose revenues are pledged under the contract. Except as provided by Subsection (h), neither the authority nor a holder of bonds of the authority may demand payment of the municipality's obligations out of funds raised or to be raised by taxation.

(g) If at the time it executes a contract under this section a municipality has outstanding revenue bonds secured by a pledge of the net revenue from a combined water and sanitary sewer system plus the net revenue from the municipality's gas distribution or electric power system, that portion of the payments made by the municipality to the authority and used by the authority for debt service on bonds of the authority may be treated by the municipality for its accounting purposes as a capital expenditure if:

(1) revenue from the municipality's gas or electric system, as the case may be, is adequate to satisfy the requirements of the ordinance or ordinances authorizing the outstanding revenue bonds and similarly secured bonds that may later be authorized, regarding the provision of funds for operation, maintenance, and debt service; and

(2) revenue from the municipality's sanitary sewer system and, if encumbered under the contract, from the municipality's water system, are sufficient to meet the requirements of the contract with the authority.

(h) A municipality may pledge its taxing power in a contract made under this section if a majority of the qualified voters of the municipality who vote on the question at an election vote in favor of the proposed contract and the levy of property taxes to pay the municipality's obligations to the authority under the contract. The election shall be conducted in substantially the same manner as a municipal bond election held under Chapter 1251, Government Code. If the voters approve the contract and tax levy:

(1) the municipal governing body shall enact an ordinance prescribing the form and substance of the contract and directing the proper officers of the municipality to sign it; and

(2) once the contract has been executed, the municipality's obligations to the authority under the contract are an obligation of the municipality's taxing power, but may be paid as provided by the contract, from taxes and revenues from which payments are required by Subsection (f).

(i) A municipality that has executed a contract under this section that is payable in whole or in part from revenue of the municipality's water or sewer system, or both of those systems, or the municipality's or combined water and sewer system shall set and periodically adjust rates charged to users so that at all times that revenue is sufficient to pay:

(1) the expenses of operating and maintaining the system in accordance with current standards and requirements for preventing stream pollution;

(2) obligations of the municipality under the contract; and

(3) all obligations of the municipality relating to revenue bonds issued for the system before or after execution of the contract under this section.

(j) A contract under this section may require the use of

consulting engineers and financial experts to advise the municipality as to when service rates are to be adjusted.

(k) The authority may render services concurrently to more than one municipality through construction and operation of a plant serving multiple municipalities, with the cost for the services to be allocated among the participating municipalities as provided by one or more contracts made under this section. All the compensation to be received by and all the security pledged to the authority by all municipalities is available to the authority to secure bonds issued to provide necessary construction funds. A contract used by the authority to secure bonds to finance its plant and facilities must be submitted by the authority to the attorney general for examination. If the attorney general approves the contract and bonds, the contract is incontestable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 10.06, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 8.349, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.023 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.024. MUNICIPAL CONTRACT FOR RECLAIMED WATER FACILITY IN CERTAIN MUNICIPALITIES. (a) In this section, "reclaimed water project" means the design, construction, equipment, repair, reconstruction, replacement, expansion, operation, or maintenance of:

(1) a reclaimed water facility with a capacity of not less than 10 million gallons per day to be owned by a municipality; and

(2) related infrastructure.

(b) This section applies only to a home-rule municipality that:

(1) has a population of at least 99,000 and not more than 160,000;

(2) is located in two counties, only one of which has a population of at least 150,000 and not more than 170,000; and

(3) owns and operates a water system, sewer system, or combined system.

(c) A municipality to which this section applies may execute, perform, and make payments under a contract with any person for the development of a reclaimed water project and the provision of water

from that project.

(d) A contract entered into under this section is an obligation of the municipality that:

(1) may provide that:

(A) the contract is payable from a pledge of the revenues of the water system, sewer system, or combined system of the municipality; or

(B) the payments from the municipality are an operating expense of the water system, sewer system, or combined system of the municipality; and

(2) may not be made payable from ad valorem taxes.

(e) A contract entered into under this section may:

(1) be in the form and on the terms considered appropriate by the governing body of the municipality;

(2) be for the term approved by the governing body of the municipality and contain an option to renew or extend the term;

(3) provide for the design, construction, and financing of the reclaimed water project by the person with whom the municipality contracts for the development of the reclaimed water project; and

(4) provide for the provision of reclaimed water for industrial purposes at specified rates for the term approved by the governing body of the municipality as part of the consideration for the acquisition of the reclaimed water project by the municipality.

(f) If a contract entered into under this section provides for the design, construction, and financing of the reclaimed water project by the person with whom the municipality contracts:

(1) a contract procurement or delivery requirement applicable to the municipality does not apply to the reclaimed water project; and

(2) Chapter 2254, Government Code, does not apply to the reclaimed water project.

(g) Subchapter I, Chapter 271, applies to a written contract entered into under this section as if the contract were a contract described by Section 271.151(2).

(h) To the extent of a conflict with another statute or municipal charter provision or ordinance, this section controls.

(i) The validity or enforceability of a contract entered into under this section by a municipality is not affected if, after the contract is entered into, the municipality no longer meets the requirements described by Subsection (b).

Added by Acts 2017, 85th Leg., R.S., Ch. 78 (H.B. 101), Sec. 1, eff. May 23, 2017.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 197, eff. September 1, 2023.

SUBCHAPTER C. MUNICIPAL DRAINAGE UTILITY SYSTEMS

Sec. 552.041. SHORT TITLE. This subchapter may be cited as the Municipal Drainage Utility Systems Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.041 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.042. LEGISLATIVE FINDING. (a) The legislature finds that authority is needed to:

(1) permit municipalities to establish a municipal drainage utility system within the established service area;

(2) provide rules for the use, operation, and financing of the system;

(3) protect the public health and safety in municipalities from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff within the boundaries of the established service area;

(4) delegate to municipalities the power to declare, after a public hearing, a drainage system created under this subchapter to be a public utility;

(5) prescribe bases on which a municipal drainage utility system may be funded and fees in support of the system may be assessed, levied, and collected;

(6) provide exemptions of certain persons from this subchapter; and

(7) prescribe other rules related to the subject of municipal drainage.

(b) This subchapter is remedial.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1230, Sec. 1(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.042 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.043. APPLICATION OF SUBCHAPTER TO MUNICIPALITIES. This subchapter applies to any municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(c), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.043 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.044. DEFINITIONS. In this subchapter:

(1)(A) "Benefitted property" means an improved lot or tract to which drainage service is made available under this subchapter.

(B) "Benefitted property," in a municipality with a population of more than 1.18 million located primarily in a county with a population of 2.5 million or more which is operating a drainage utility system under this chapter, means a lot or tract, but does not include land appraised for agricultural use, to which drainage service is made available under this subchapter and which discharges into a creek, river, slough, culvert, or other channel that is part of the municipality's drainage utility system. Sections 552.053(c)(2) and (c)(3) do not apply to a municipality described in this subdivision.

(2) "Cost of service" as applied to a drainage system service to any benefitted property means:

(A) the prorated cost of the acquisition, whether by eminent domain or otherwise, of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefitted property;

(B) the prorated cost of the acquisition, construction,

repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;

(C) the prorated cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of structures, equipment, and facilities used in draining the benefitted property;

(D) the prorated cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefitted property;

(E) the prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a drainage facility used in draining the benefitted property;

(F) the prorated cost of debt service and reserve requirements of structures, equipment, and facilities provided by revenue bonds or other drainage revenue-pledge securities or obligations issued by the municipality; and

(G) the administrative costs of a drainage utility system.

(3) "Drainage" means bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.

(4) "Drainage charge" means:

(A) the levy imposed to recover the cost of the service of the municipality in furnishing drainage for any benefitted property; and

(B) if specifically provided by the governing body of the municipality by ordinance, an amount made in contribution to funding of future drainage system construction by the municipality.

(5) "Drainage system" means the drainage owned or controlled in whole or in part by the municipality and dedicated to the service of benefitted property, including provisions for additions to the system.

(6) "Facilities" means the property, either real, personal, or mixed, that is used in providing drainage and included in the

system.

(7) "Public utility" means a drainage service that is regularly provided by the municipality through municipal property dedicated to that service to the users of benefitted property within the service area and that is based on:

(A) an established schedule of charges;

(B) the use of the police power to implement the service; and

(C) nondiscriminatory, reasonable, and equitable terms as declared under this subchapter.

(8) "Service area" means the municipal boundaries and any other land areas outside the municipal boundaries which, as a result of topography or hydraulics, contribute overland flow into the watersheds served by the drainage system of a municipality; provided, however, that in no event may a service area extend farther than the boundaries of a municipality's current extraterritorial jurisdiction, nor, except as provided by Section 552.0451, may a service area of one municipality extend into the boundaries of another municipality. The service area is to be established in the ordinance establishing the drainage utility. Provided, that no municipality shall extend a service area outside of its municipal boundaries except:

(A) a municipality of more than 500,000 population located within 50 miles of an international border;

(B) a municipality all or part of which is located over or within the Edwards Aquifer recharge zone or the Edwards Aquifer transition zone, as designated by the Texas Commission on Environmental Quality; or

(C) as provided by Section 552.0451.

(9) "User" means the person or entity who owns or occupies a benefitted property.

(10) "Improved lot or tract" means a lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

(11) "Wholly sufficient and privately owned drainage system" means land owned and operated by a person other than a municipal drainage utility system the drainage of which does not discharge into a creek, river, slough, culvert, or other channel that is part of a municipal drainage utility system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 1230, Sec. 1(d), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 674, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 773, Sec. 1, eff. June 18, 1993; Acts 1995, 74th Leg., ch. 35, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 76, Sec. 11.258, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 633, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 13.22, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 108, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 520 (S.B. 688), Sec. 1, eff. June 16, 2007.

Renumbered from Local Government Code, Section 402.044 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(5), eff. April 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 101, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 198, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 986 (S.B. 766), Sec. 35, eff. September 1, 2025.

Sec. 552.045. ADOPTION OF SYSTEM; RULES. (a) Subject to the requirements in Subsections (b) and (c), the governing body of the municipality, by a majority vote of its entire membership, may adopt this subchapter by an ordinance that declares the adoption and that declares the drainage of the municipality to be a public utility.

(b) Before adopting the ordinance, the governing body must find that:

(1) the municipality will establish a schedule of drainage charges against all real property in the proposed service area subject to charges under this subchapter;

(2) the municipality will provide drainage for all real property in the proposed service area on payment of drainage charges, except real property exempted under this subchapter; and

(3) the municipality will offer drainage service on

nondiscriminatory, reasonable, and equitable terms.

(c) Before adopting the ordinance, the governing body must publish a notice in a newspaper of general circulation in the municipality stating the time and place of a public hearing to consider the proposed ordinance. The proposed ordinance must be published in full in the notice. The governing body shall publish the notice three times before the date of the hearing. The first publication must occur on or before the 30th day before the date of the hearing.

(d) After passage of the ordinance adopting this subchapter, the municipality may levy a schedule of drainage charges. The municipality must hold a public hearing on the charges before levying the charges. The municipality must give notice of the hearing in the manner provided by Subsection (c). The proposed schedule of drainage charges, as originally adopted or as revised, must be published in the notice.

(e) The municipality by ordinance may adopt and enforce rules as it considers appropriate to operate the drainage utility system. Provided, however, that the prohibitions contained in Section 212.003(a) of the Local Government Code relating to quasi-zoning and other land use regulations in the extraterritorial jurisdiction of a municipality shall apply to any rule or ordinance adopted or enacted by the municipality under this Act, except that rates may be established using impervious cover measurements relating to land use and building size.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(e), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.045 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.0451. EXTENSION OF SERVICE AREA BY CERTAIN MUNICIPALITIES. (a) A municipality with a population of more than 900,000 located in one or more counties with a population of less than 1.5 million as of the 1990 federal census may extend its service area:

(1) into the boundaries of another municipality if:

(A) before the extension water from the municipality to which the service area is to be extended regularly drains into the drainage system of the municipality extending its service area; and

(B) the extension is provided for by an interlocal agreement between the municipalities; or

(2) beyond its municipal boundaries into an unincorporated area of its extraterritorial jurisdiction if:

(A) before the extension water from the area to which the service area is to be extended regularly drains into the drainage system of the municipality extending its service area; and

(B) the extension is provided for by an interlocal agreement between the municipality extending its service area and the county containing the area to which the service area is to be extended.

(b) An interlocal agreement under Subsection (a) may:

(1) contain provisions necessary for the operation of a drainage system within the area to which the service area is extended; and

(2) provide for charges for treatment of drainage water and methods of assessment of the charges to an owner of a lot or tract of benefitted property in the area to which the service area is extended.

(c) Charges and methods of assessment agreed to under Subsection (b)(2) must comply with Section 552.047.

Added by Acts 1993, 73rd Leg., ch. 773, Sec. 2, eff. June 18, 1993. Renumbered from Local Government Code, Section 402.0451 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(6), eff. April 1, 2009.

Sec. 552.046. INCORPORATION OF EXISTING FACILITIES. The municipality may incorporate existing drainage facilities, materials, and supplies into the drainage utility system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.046 by Acts 2007,

80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.047. DRAINAGE CHARGES. (a) The governing body of the municipality may charge a lot or tract of benefitted property for drainage service on any basis other than the value of the property, but the basis must be directly related to drainage and the terms of the levy, and any classification of the benefitted properties in the municipality must be nondiscriminatory, equitable, and reasonable.

(b) In setting the schedule of charges for drainage service, the governing body must base its calculations on an inventory of the lots and tracts within the service area. The governing body may use approved tax plats and assessment rolls for that purpose. The governing body may also consider the land use made of the benefitted property. The governing body may consider the size, in area, the number of water meters, and topography of a parcel of benefitted property, in assessing the drainage charge to the property.

(c) The governing body may fix rates for drainage charges in advance and may change, adjust, and readjust the rates and charges for drainage service from time to time. The rates must be equitable for similar services in all areas of the service area.

(d) Unless a person's lot or tract is exempted under this subchapter, the person may not use the drainage system for the lot or tract unless the person pays the full, established, drainage charge.

(e) Users residing within the established service area, but outside the municipality's boundaries, may appeal rates established for drainage charges under Section 13.043(b), Water Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 11.259, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 633, Sec. 2, eff. Sept. 1, 1997.
Renumbered from Local Government Code, Section 402.047 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 170 (H.B. 1600), Sec. 2.87, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 171 (S.B. 567), Sec. 87, eff.

September 1, 2013.

Sec. 552.048. BILLINGS; DEPOSIT NOT REQUIRED. (a) The municipality may bill drainage charges, identified separately, with the municipality's other public utility billings. Any delinquent billings may be collected on the benefitted property under the procedure prescribed by this subchapter.

(b) The municipality may not require a deposit for drainage service as a precondition to accepting surface flow in the drainage utility system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.048 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.049. SEGREGATION OF INCOME. The income of a drainage utility system must be segregated and completely identifiable in municipal accounts. If drainage charges are solely for the cost of service, the municipality may transfer the charges in whole or in part to the municipal general fund, except for any part collected outside municipal boundaries and except for any part pledged to retire any outstanding indebtedness or obligation incurred, or as a reserve for future construction, repair, or maintenance of the drainage system. If the governing body has levied, in the drainage charge, an amount in contribution to the funding of future system improvements, including replacement, new construction, or extension, that amount is not transferable to the general fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(f), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.049 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.050. DELINQUENT CHARGES. (a) Any charge due

hereunder which is not paid when due may be recovered in an action at law by the municipality. In addition to any other remedies or penalties provided at law or in this subchapter, failure of a user of the municipal utilities within the service area to pay the charges promptly when due shall subject such user to discontinuance of any utility services provided by the municipality, and municipalities are hereby empowered to enforce this provision against delinquent users. The employees of the utility established in accordance with this subchapter shall have access, at all reasonable times, to any benefitted properties served by the drainage utility for inspection or repair or for the enforcement of the provisions of this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.050 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.051. DRAINAGE REVENUE BONDS. By majority vote of the governing body, the municipality may issue drainage revenue bonds. The municipality may use Chapter 1201, Government Code. In addition, the municipality may pledge income received by contracts for the provision of drainage to other governments or governmental subdivisions located inside or outside the service area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 2001, 77th Leg., ch. 1420, Sec. 8.350, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.051 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.052. DISCONTINUATION OF DRAINAGE SYSTEM. (a) If, after at least five years of substantially continuous operation of a municipal drainage system, the governing body of the municipality determines that the system should be discontinued, that the powers under this subchapter should be revoked, and that provision for municipal drainage should be made by other revenues, the governing

body may adopt an ordinance to that effect after providing notice and a public hearing as provided by Section 552.045.

(b) If the municipality discontinues a system under Subsection (a), it may not adopt a system under this subchapter for at least five years after the discontinuation.

(c) A discontinuation does not affect a written obligation incurred by the municipality for funding or for the purchase of equipment, materials, or labor for the drainage system that is not then fully paid or otherwise discharged.

(d) A claim for damages based on an alleged failure of the drainage system that is filed with the municipality before the adoption of the ordinance discontinuing the drainage system is not abated by the discontinuation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(g), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.052 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(7), eff. April 1, 2009.

Sec. 552.053. EXEMPTIONS. (a) A governmental entity or person described by Subsection (b) and a lot or tract in which the governmental entity or person holds a freehold interest may be exempt from this subchapter and all ordinances, resolutions, and rules adopted under this subchapter.

(b) The following may be exempt:

(1) this state;

(2) a county;

(3) a municipality; or

(4) school districts and open-enrollment charter schools.

(c) The following shall be exempt from the provisions of any rules or ordinances adopted by a municipality pursuant to this Act:

(1) property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;

(2) property held and maintained in its natural state,

until such time that the property is developed and all of the public infrastructure constructed has been accepted by the municipality in which the property is located for maintenance; and

(3) a subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the municipality in which the property is located.

(d) A municipality may exempt property owned by a religious organization that is exempt from taxation pursuant to Section 11.20, Tax Code, from all or a portion of drainage charges under this subchapter, as the governing body of the municipality considers appropriate.

(d-1) A municipality may exempt property used for cemetery purposes from drainage charges under Section 552.047 if the cemetery is closed to new interments and does not accept new burials.

(e) The following property is exempt from drainage charges under Section 552.047 and all ordinances, resolutions, and rules adopted under this subchapter:

(1) property owned by a county in which a municipality described by Section 552.044(8)(A) is located;

(2) property owned by a school district located wholly or partly in a municipality described by Section 552.044(8)(A); and

(3) property owned by a municipal housing authority of a municipality described by Section 552.044(8)(A).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 674, Sec. 2, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 773, Sec. 3, eff. June 18, 1993.
Renumbered from Local Government Code, Section 402.053 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 278 (S.B. 874), Sec. 1, eff. May 30, 2009.

Acts 2009, 81st Leg., R.S., Ch. 539 (S.B. 1522), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 16.006, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1230 (S.B. 609), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 161 (H.B. 1662), Sec. 1, eff. May 28, 2015.

Acts 2023, 88th Leg., R.S., Ch. 699 (H.B. 1707), Sec. 3, eff. June 12, 2023.

Sec. 552.054. EFFECT OF SUBCHAPTER. This subchapter does not:

(1) enhance or diminish the authority of a home-rule municipality to establish a drainage utility under Article XI, Section 5, of the Texas Constitution;

(2) preclude a municipality from utilizing revenues, other than drainage utility revenues, for drainage purposes; or

(3) preclude a municipality from imposing impact fees or other charges for drainage authorized by law.

Added by Acts 1989, 71st Leg., ch. 1230, Sec. 1(h), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.
Renumbered from Local Government Code, Section 402.054 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER D. IMPROVEMENTS TO WATER AND SEWER SYSTEMS IN CERTAIN MUNICIPALITIES

Sec. 552.061. APPLICATION OF SUBCHAPTER TO CERTAIN MUNICIPALITIES. To exercise authority under this subchapter, a municipality must:

(1) have all or a major part of its territory in a county with a population of more than 25,000; or

(2) be located in a county in which at least 60 percent of the total area is regularly covered by water and in which is located the majority of the total area of a wildlife refuge for species of wildlife on the federal endangered species list.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 83(b), eff. Aug. 28, 1989.
Renumbered from Local Government Code, Section 402.061 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.062. DEFINITIONS. In this subchapter:

(1) "Benefitted property" means a lot or tract to which water or sewer service is made available under this subchapter.

(2) "Cost of improvement" includes engineering expenses, fiscal fees, and other expenses incident to the construction of improvements to the water system, sewer system, or both systems in addition to the other costs of the improvements.

(3) "Sewer system improvements" means the laying of mains, laterals, and extensions and all appliances and necessary adjuncts required for the sanitary disposal of excreta and offal from the area in which the improvements are made but does not include off-site mains, laterals, and extensions and appliances and adjuncts necessary to connect the improvements to the existing sewer system operated by the municipality.

(4) "Water system improvements" means the laying of a water main with gates, tees, crosses, taps, meter boxes, manholes, or extensions, and any other appurtenances required to furnish water for domestic or commercial purposes to the area in which the improvements are constructed, but does not include any off-site appurtenances required to connect the improvements to the existing water system operated by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.062 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.063. MUNICIPAL AUTHORITY. (a) The municipality may improve a water works system or sanitary sewer system within the municipal boundaries by constructing, extending, enlarging, or reconstructing the system.

(b) The governing body of the municipality may determine the need for improvements, may order the construction of the necessary improvements, and may contract for the improvements.

(c) The governing body may act under this subchapter through resolution, motion, order, or ordinance unless an ordinance is specifically required. The governing body may adopt, by resolution or ordinance, any rules appropriate to the exercise of its powers under this subchapter, including rules relating to notice and hearing

under this subchapter.

(d) The governing body may not assess a special tax or assessment against a railway, street railway, or interurban right-of-way to defray a portion of the cost of the improvements to the municipal water or sanitary sewer system.

(e) This subchapter does not affect the law of this state relating to the duty of a municipality to furnish water or sewer service in its proprietary capacity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.063 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.064. DECLARATION; COSTS; ESTIMATED ASSESSMENT. (a) In the ordinance or resolution that declares the need for the improvements, the municipality:

(1) must state the general nature and extent of the improvements; and

(2) may direct that detailed plans, specifications, and cost estimates for the improvements be prepared and submitted to the governing body.

(b) The cost of the improvements may be paid wholly by the municipality or partly by the municipality and partly by the benefitted property and its owners. If any part of the cost is to be paid by the benefitted property and its owners, the governing body of the municipality must prepare an estimate of the cost of the improvements. The governing body must prepare the estimate before any improvements are constructed, either before or after bids for the proposed construction are received by the municipality, but before the hearing required under this subchapter is held.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.064 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.065. ASSESSMENT PROVISIONS. (a) By ordinance, the governing body of the municipality may:

(1) assess not more than nine-tenths of the estimated cost of improvements against the benefitted property and the owners of that property;

(2) provide the time, terms, and conditions of payment and defaults of the assessments; and

(3) prescribe the interest rate on the assessment, not to exceed 10 percent a year.

(b) The governing body may issue in the name of the municipality assignable certificates in evidence of assessments levied under this section that declare the lien on the property and the liability of the owners whether named correctly or not. The governing body may set the terms and conditions of those certificates. If a certificate substantially states that the required proceeding relating to improvements referred to in the certificate has been held in compliance with law and that all the prerequisites to the fixing of an assessment lien against the property described in the certificate and the personal liability of the owner of the property have been performed, the certificate is prima facie evidence of all the matters recited in the certificate, and further proof is not required. In a suit on an assessment or reassessment in evidence of which a certificate may be issued under this subchapter, it is sufficient to allege the substance of the recitals in the certificate and that those recitals are true. Further allegations with reference to the proceedings relating to the assessment or reassessment are not necessary.

(c) An assessment against benefitted property under this section is collectable with interest, cost of collection, and reasonable attorney's fees. The assessment is a first and prior lien on the assessed property and the lien takes effect on the date that a notice of proposed improvements is made under Section 552.067. The lien is superior to any other lien or claim except a state, county, school district, or municipal property tax lien. The assessment is a personal liability and charge against the owners of the assessed property on the date on which the lien takes effect, whether or not the owners are named in a notice, instrument, certificate, or ordinance provided for under this subchapter.

(d) The municipality may make assessments against several parcels of benefitted property in one assessment if the parcels are owned by the same person. The municipality may jointly assess benefitted property owned jointly by one or more persons.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.065 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(8), eff. April 1, 2009.

Sec. 552.066. APPORTIONMENT OF ASSESSMENTS. (a) Except as provided by Subsection (c), the municipality shall separately compute the cost of the water or sewer improvements and shall apportion the part of the cost of those improvements that may be assessed against the benefitted property and the owners of the property, among the parcels of the benefitted property and the owners, in accordance with the front foot rule.

(b) Under the front foot rule, the governing body of the municipality shall assess each parcel of benefitted property according to the number of lineal feet of the parcel that abuts on a public street, irrespective of the location of improvements constructed under this subchapter relating to that parcel if the improvements provide water or sewer service to the assessed parcel. The governing body shall assess a corner lot based on the shorter side of the lot that abuts on a public street.

(c) If, in the opinion of the governing body, application of that rule would result in injustice or inequality in particular cases, the governing body shall apportion and assess those costs in the proportion it considers just and equitable, taking into account the special benefits in enhanced value to be received by those owners, and shall adjust the apportionment so as to produce a substantial equality of benefits received and burdens imposed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.066 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.067. NOTICE OF PROPOSED IMPROVEMENTS; LIEN. (a) If the governing body of the municipality proposes to levy or assess any

of the cost of improvements against the benefitted property as provided by Section 552.065, the governing body may file a notice, signed on behalf of the municipality by the municipal clerk, secretary, mayor, or other officer performing the duties of those officers, with the county clerk of the county in which the property is located. The notice must substantially show that the governing body has determined by order, directive, or otherwise that water or sewer system improvements are necessary, identify the required improvements by location or otherwise, state that a portion of the cost of the improvements is to be or has been specially assessed as a lien against the benefitted property, and describe that property. One notice may contain any number of systems or improvements.

(b) It is not necessary that a notice under this section give details or be sworn to or acknowledged. The governing body may file the notice at any time. The county clerk with whom the notice is filed shall record the notice in the records of mortgages or deeds of trust and shall index it in the name of the municipality and in the name or other designation of the water or sewer system to which the notice relates.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.067 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(9), eff. April 1, 2009.

Sec. 552.068. EXEMPTIONS; PERSONAL LIABILITY FOR ASSESSMENT. (a) All property, including church and school property, is subject to a tax or assessment authorized for local improvements under this subchapter. However, this subchapter does not authorize the municipality or its governing body to fix a lien against any interest in property that is exempt from the lien of a special assessment for local improvements under the constitution of this state at the time the lien takes effect. The owner of such a property is personally liable for any assessment made in connection with the improvement, and the municipality may refuse water or sewer service to the owner until the owner pays the municipality the assessment made against the

property or an amount equal to the assessment made against private property of equal or comparable size. The fact that an ordered improvement is omitted as to property, an interest in which is exempt, does not invalidate the lien or liability of assessment made against any other property.

(b) The municipality may enforce a lien created against any property and the personal liability of the owner of the property by an action in a court having jurisdiction or by sale of the assessed property in the manner provided by law or charter in effect in that municipality for the sale of property for municipal property taxes.

(c) As an aid to enforcement of the liability imposed by the assessment, the municipality may refuse to connect or may disconnect water or sewer service to a parcel of benefitted property during the period in which there is a default in the payment of any amount assessed under this subchapter against the parcel or its owner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.068 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.069. NOTICE AND HEARING REQUIREMENTS; APPEAL. (a) The municipality may not make an assessment under this subchapter against any benefitted property until it has given notice and provided an opportunity for a hearing as provided by this section. The municipality may not make an assessment against any benefitted property or the owners of the property in excess of the enhancement of value of the property caused by the improvements as determined by the hearing.

(b) The municipality shall deliver the notice required under this section in writing by mailing the notice to the address of the owner of the property or to the person who last paid taxes on the property as determined by the municipal tax rolls. The municipality must mail the notice before the 10th day before the date set for the hearing and must publish the notice at least three times in a newspaper of general circulation in the municipality in which the special assessment tax is to be imposed. The municipality shall publish the first notice before the 10th day before the date set for the hearing. Proof of the mailing and publication constitutes proof

that all the notice requirements of this section have been met.

(c) A notice is sufficient, valid, and binding on all persons who own or claim benefitted property or an interest in that property if the notice:

(1) generally describes the nature of the improvements for which the municipality proposes to make assessments and to which the notice relates;

(2) describes the water or sanitary sewer system to be improved or the portions of that system to which the improvements relate;

(3) states the estimated amount per front foot proposed to be assessed against benefitted property or the owners of the property;

(4) describes the property benefitted by each system or portion of system with reference to which the required hearing is to be held;

(5) states the estimated total cost of the improvements on each system or portion of a system; and

(6) states the time and place of the hearing.

(d) The governing body of the municipality shall conduct the hearing. Each person who owns or claims benefitted property or an interest in that property is entitled to be heard on any matter to which a hearing is a constitutional prerequisite to the validity of an assessment authorized by this subchapter. Such a person may contest the amount of the proposed assessment, the lien and liability for the lien, the special benefits claimed for the property to be improved and its owner by means of improvements for which assessments are to be levied, and the accuracy, sufficiency, regularity, and validity of the proceedings and any contract in connection with the improvements and proposed assessments. The governing body may correct any deficiencies and may determine the amounts of the assessments and other necessary matters. By ordinance, the municipality may close the hearing and may levy the assessment for improvements before, during, or after the construction of those improvements. The municipality may not make any part of such an assessment mature before the acceptance by the municipality of the improvements for which the assessment is levied.

(e) A person who owns or claims assessed property or an interest in that property may appeal the assessment based on the amount of the assessment; on any inaccuracy, irregularity,

invalidity, or insufficiency of the proceedings or contract relating to the assessment; or on anything that is not within the discretion of the governing body of the municipality, by bringing suit in a court of competent jurisdiction within 15 days after the date the assessment is levied. A claimant who does not bring suit within that time waives the right to contest any matter that might have been presented at the hearing and is barred and estopped from contesting the assessment or the proceedings and contract relating to the assessment in any manner. The only defense to an assessment in a suit brought to enforce the assessment is failure to publish notice as required by this section or that the assessment exceeds the amount of the estimate. The words or acts of any municipal officer or employee, including a member of the governing body, do not affect the force and effect of this subchapter, except for official actions of the governing body as shown in its written proceedings and records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.069 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.070. CHANGE; ABANDONMENT. (a) Except as limited by this section, the governing body of the municipality may change plans, methods, contracts, or other proceedings relating to improvements.

(b) The governing body may not make a change that substantially affects the nature or quality of the improvements unless the governing body, by a two-thirds vote, determines that it is impractical to proceed with the improvements as proposed.

(c) If a substantial change is made after a hearing has been ordered or held, a new cost estimate and a new hearing with proper notices is required unless the improvement is totally abandoned.

(d) A change in or an abandonment of improvements requires the consent of any person who has contracted with the municipality for the construction of the improvements.

(e) If improvements are abandoned, the municipality shall pass an ordinance that cancels any assessments already levied for the improvements and that cancels any other proceedings relating to those improvements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.070 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.071. CORRECTIONS; REASSESSMENTS. (a) If an assessment is determined to be invalid or unenforceable, the governing body of the municipality may correct any deficiency in the proceedings relating to the assessment or any mistake or irregularity in connection with the assessment. The governing body may make and levy reassessments after a notice and hearing that comply as nearly as possible with the requirements for the original notice and hearing, and subject to the provisions relating to special benefits. A recital in a certificate issued as evidence of a reassessment has the same force as a recital in a certificate related to an original assessment.

(b) A person who owns or claims an interest in property against which a reassessment is levied has the same right of appeal provided under this subchapter for an original assessment. If the person does not appeal within 15 days after the date of the hearing relating to the reassessment, the provisions of Section 552.069 relating to waiver, bar, estoppel, and defense apply.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.071 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(10), eff. April 1, 2009.

Sec. 552.072. JOINT PROCEEDINGS. The municipality may make the improvements and assessments provided under this subchapter in conjunction with the street improvements and assessments provided for in Chapter 313, Transportation Code, through a joint proceeding. If a joint proceeding is conducted, only one hearing is required, and the procedure required under this subchapter controls. The municipality may issue a single assessment certificate against a

parcel of benefitted property and its owner in evidence of the total assessment made for all improvements made under this subchapter, including street improvements made in a joint proceeding, if the amount assessed for each class of improvements is set out separately and distinctly in the ordinance under which the assessment is made.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.227, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.072 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.073. RESTRICTIONS IN CERTAIN COUNTIES. (a) In this section, "subdivided or platted property" means property that:

(1) has been platted under Chapter 212; or

(2) has been subdivided or platted by a map or plat that is filed for record in the office of any county clerk and that contains a dedication of the property for public use for a street or alley right-of-way or for a public utility easement.

(b) A municipality located in a county with a population of less than 700,000 may not make an assessment or other charge for the construction of improvements to a water or sewer system against any property or property owner, regardless of who initiates the request for the construction, unless the property is located in an area that has been subdivided or platted for at least the 10 years preceding the date of the assessment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.073 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.074. AUTHORIZED INVESTMENT. A certificate of special assessment issued under this subchapter, including a certificate issued under a joint proceeding under Section 552.072, is a legal and authorized investment for a bank, savings bank, trust company, savings and loan association, insurance company, sinking fund of a municipality, county, school district, or other political subdivision of this state, and for all other public funds of this state or an

agency of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.074 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(11), eff. April 1, 2009.

Sec. 552.075. HOME-RULE MUNICIPALITY. A home-rule municipality to which this subchapter applies may adopt plans and specifications for improvements as provided by this subchapter and may pay in cash to the contractor who is the successful bidder that part of the cost assessed against the owner and the benefitted property. The municipality may reimburse itself by levying an assessment against the benefitted property and its owner after notice and hearing as provided by this subchapter. The municipality may reimburse itself up to the amount of the enhancement in value represented by the benefits and as permitted under this subchapter and may issue assignable certificates in favor of the municipality for the assessment. The certificates are enforceable in the manner provided by Section 552.065. The municipality may use its own forces to make the improvements if the work may be performed more expeditiously and economically in that manner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.075 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(12), eff. April 1, 2009.

SUBCHAPTER E. CONSTRUCTION OF SANITARY SEWERS IN CERTAIN MUNICIPALITIES

Sec. 552.091. APPLICATION OF SUBCHAPTER TO CERTAIN MUNICIPALITIES. To exercise authority under this subchapter, a municipality must have:

(1) a population of less than 15,000;

(2) levied the maximum rate of tax allowed by law; and

(3) adopted Subchapters A through C, Chapter 312, Transportation Code.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 12, eff. Sept. 1, 1995. Renumbered from Local Government Code, Section 402.091 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.092. CONSTRUCTION OF SANITARY SEWERS. (a) The governing body of a municipality may order the construction and installation of sanitary sewers if it is presented with a petition that is signed by at least two-thirds of the owners of property abutting the proposed construction.

(b) A municipality's authority under this subchapter is subject to the same provisions relating to assessments, hearings, and other matters that apply to a highway improvement ordered under Subchapters A through C, Chapter 312, Transportation Code.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 12, eff. Sept. 1, 1995. Renumbered from Local Government Code, Section 402.092 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER F. MUNICIPAL WATER CORPORATIONS AND MUNICIPAL WATER SYSTEMS

Sec. 552.101. MUNICIPAL WATER CONTRACTS. The governing body of a municipality in which there is a water corporation may contract with the corporation to supply water to a street, alley, lot, square, or public place in a municipality.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.101 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.102. EMINENT DOMAIN BY MUNICIPAL SEWER PROVIDERS. (a)

A corporation incorporated in this state for the purpose of owning, constructing, or maintaining a sewer system in a municipality may by eminent domain condemn private property to:

(1) construct and maintain sewer pipes, mains and laterals, and connections; and

(2) maintain vats, filtration pipes, and other pipes for the final disposition of sewage.

(b) A corporation may exercise a power described by Subsection (a) only if:

(1) the use of private property is necessary for the successful operation of the sewer system; and

(2) the sewer system is beneficial to the public use, health, or convenience.

(c) The power of eminent domain may not be used under this section in the boundaries of a municipality unless permitted or required by the municipality granting a franchise to the corporation seeking the right of condemnation.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.102 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.103. RIGHTS OF WATER CORPORATION PROVIDING SERVICE TO MUNICIPALITY; EMINENT DOMAIN. (a) A water corporation in a municipality may sell and furnish water required by a municipality for a public or private building or for any other purpose.

(b) A water corporation may lay water system pipes, mains, or conductors through a street, alley, lane, or square of a municipality if the governing body of the municipality consents, subject to any regulation by the governing body.

(c) If necessary to preserve the public health, a water corporation incorporated under state law to construct waterworks or to furnish water supply to a municipality may exercise the power of eminent domain to condemn private property necessary to construct a supply reservoir or standpipe for water work.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.103 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1,

2009.

Sec. 552.104. LOCATION OF WATER LINES OUTSIDE MUNICIPAL BOUNDARIES. (a) A water corporation or municipality may lay water system pipes, mains, conductors, or other fixtures through, under, along, across, or over a public road, a public street, or a public waterway not in a municipality in a manner that does not inconvenience the public using the road, street, or waterway.

(b) A water corporation or municipality proposing under this subchapter to build a water line along the right-of-way of a state highway or county road not in a municipality shall give notice of the proposal to:

(1) the Texas Transportation Commission, if the proposal relates to a state highway; or

(2) the commissioners court of the county if the proposal relates to a county road.

(c) On receipt of notice under Subsection (b), the Texas Transportation Commission or commissioners court may designate the location in the right-of-way where the corporation or municipality may construct the water line.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.104 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.105. RELOCATION OF WATER LINE TO ALLOW CHANGE TO TRAFFIC LANE. (a) The authority of the Texas Transportation Commission under this section is limited to a water line on a state highway not in a municipality. The authority of the commissioners court under this section is limited to a water line on a county road not in a municipality.

(b) The Texas Transportation Commission or the commissioners court of a county may require a water corporation or municipality to relocate the corporation's or municipality's water line at the corporation's or municipality's own expense to allow the widening or other changing of a traffic lane.

(c) To impose a requirement under this section, the Texas

Transportation Commission or the commissioners court, as appropriate, must give to the water corporation or municipality 30 days' written notice of the requirement. The notice must identify the water line to be relocated and indicate the location on the new right-of-way where the corporation or municipality may place the line.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.105 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER G. MANAGEMENT OF CERTAIN ENCUMBERED MUNICIPAL ELECTRIC UTILITY SYSTEMS

Sec. 552.121. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality that owns an electric utility system, that by ordinance or charter elects to have the management and control of the utility system governed by a board of trustees, and that:

(1) has outstanding obligations payable in whole or in part from and secured by a lien on and pledge of the net revenue of the system; or

(2) issues obligations that:

(A) are payable in whole or in part from and secured by a lien on and pledge of the net revenue of the system; and

(B) are approved by the attorney general.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.106(a), eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 402.121 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.122. TRANSFER OF MANAGEMENT AND CONTROL OF ELECTRIC UTILITY SYSTEM. (a) A municipality by ordinance may transfer management and control of the municipality's electric utility system to a board of trustees appointed by the municipality's governing body.

(b) The municipality by ordinance shall prescribe:

(1) the number of members; and

(2) the qualifications for appointment to the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.106(a), eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 402.122 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.123. AUTHORITY OF BOARD OF TRUSTEES. (a) The municipality by ordinance may vest in the board the power to establish rates and related terms for its municipally owned electric utility system.

(b) The municipality may delegate to the board of trustees all or part of the municipality's authority to:

(1) exercise the power of eminent domain with respect to property that will be used by, useful to, or required by the utility system; and

(2) issue obligations in the name of the municipality to acquire or construct an improvement to or extension of the utility system or to repair the system.

(c) The municipality may authorize the board of trustees to issue obligations under Subsection (b)(2) without the prior approval of the municipality. The obligations must be payable solely from the net revenue of the utility system.

(d) The municipality may not delegate to the board of trustees the authority to:

(1) levy or collect ad valorem taxes; or

(2) issue obligations that are payable in whole or in part from ad valorem taxes.

(e) The municipality and the board of trustees may jointly provide for the issuance of obligations payable from ad valorem taxes and the utility system's net revenue by adopting identical provisions in an ordinance or resolution, as appropriate.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.106(a), eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 402.123 by Acts 2007,

80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.124. EFFECT OF PREVIOUSLY ISSUED BONDS. (a) A municipality or an existing board of trustees may not exercise a power provided by this subchapter in relation to an obligation issued before June 14, 1989, unless the ordinance authorizing the issuance of the obligation or the deed of trust or trust indenture securing payment of the obligation specifically allows the municipality or board to exercise the power. The authority of the municipality or board in relation to that obligation is subject to any restriction or covenant contained in the ordinance, deed of trust, or trust indenture.

(b) The board of trustees may authorize, issue, and sell additional obligations on a parity with an obligation issued before June 14, 1989, if the ordinance, deed of trust, or trust indenture provides for the issuance of the obligations. The obligations must be payable from the revenue pledged to pay the previous obligation and must be secured by pledges and liens on a parity with the pledge securing the previous obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 402.124 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER H. MANAGEMENT OF CERTAIN ENCUMBERED MUNICIPAL WATER SYSTEMS

Sec. 552.141. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality that owns or may own a water, wastewater, storm water, or drainage utility system, by ordinance or charter elects to have the management and control of two or more of those utility systems governed by this subchapter, and:

(1) has outstanding obligations payable solely from and secured by a lien on and pledge of the net revenue of one or more of those systems; or

(2) issues obligations that are payable solely from and secured by a lien on and pledge of the net revenue of one or more of

those systems.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 402.141 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1003 (H.B. 2207), Sec. 2, eff. June 17, 2011.

Sec. 552.142. TRANSFER OF MANAGEMENT AND CONTROL OF UTILITY SYSTEM. (a) A municipality by ordinance may transfer management and control of two or more of its water, wastewater, storm water, or drainage systems to a board of trustees. A municipality by ordinance may grant the board authority to set rates and related terms for the systems.

(b) The board of trustees must consist of at least seven members, one of whom must be the presiding officer of the governing body of the municipality.

(c) The ordinance transferring management and control must prescribe the number, qualifications, terms of office, succession, compensation, powers, and duties of the members of the board of trustees.

(d) On any matter not covered by the ordinance, the board is governed by the laws and rules governing the governing body of the municipality, to the extent applicable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 402.142 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1003 (H.B. 2207), Sec. 3, eff. June 17, 2011.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 552.901. RELOCATION OR REPLACEMENT OF WATER OR SEWER LATERALS. (a) By ordinance, a municipality may contract for the relocation or replacement of a sanitation sewer lateral or water

lateral that serves a residential structure on private property to connect the lateral to a new, renovated, or rebuilt sanitation main or water main constructed by the municipality. The municipality shall assess the cost of the relocation or replacement of the lateral against the property on which the lateral is located. A lien attaches to the property for the cost of the relocation or replacement.

(b) Before a municipality contracts under Subsection (a), the municipality must obtain the property owner's written consent to the contract, to the relocation or replacement of the sewer lateral or water lateral, and to the assessment. The written consent must state that the person giving the consent is the property owner or the authorized representative of the property owner, must state the owner's address, and must state that:

(1) the consent is given freely;

(2) the owner understands that as a result of the assessment a lien attaches to the property for the total cost of the relocation or replacement;

(3) the municipality will not pay any part of the relocation or replacement cost; and

(4) the owner has five years from the date the work is completed to repay the cost to the municipality.

(c) Before the contract for the work is made but after the municipality has received bids for the work, the municipality must give notice to the property owner. The notice must state the bid price accepted by the municipality for the completion of the work and that the contract price may be increased by not more than 10 percent because of changes without the written consent of the owner. The notice shall be given to the owner by personal delivery, or by depositing the notice in the United States mail, postage prepaid, addressed to the owner at the address in the owner's written consent.

(d) The municipality shall contract for the performance of the work in accordance with the law applicable to public improvements before work begins on the relocation or replacement of a lateral and after the municipality files the written consent of the property owner with the municipal clerk or municipal secretary. The contract may be changed as necessary for the successful completion of the work, but the contract price may not be increased by more than 10 percent because of those changes without the written consent of the owner as provided by Subsection (c).

(e) Unless the owner waives the right to reject the contract as provided by Subsection (f) on or before the 45th day after the date the notice is mailed or delivered, the owner may exercise that right by notifying the municipal clerk or municipal secretary of the withdrawal of consent. If the owner fails to withdraw consent during the 45-day period, the municipality may contract for the performance of the work, the work may proceed, and the assessment may be made without further consent by the owner. After the expiration of the 45-day period, the owner may not withdraw the consent.

(f) The owner may waive the right to reject the contract by filing a sworn affidavit to that effect with the municipal clerk or municipal secretary. After the affidavit is filed, the municipality may contract for the performance of the work, the work may proceed, and the assessment may be made without further consent by the owner.

(g) On receipt by the municipality of a certificate from the contractor certifying that all work has been completed in accordance with the contract, and on a finding by the municipality that the work has been properly completed in accordance with the applicable codes and ordinances of the municipality, the municipality may pay the contractor the cost of the completed work.

(h) When payment is made to the contractor, the municipality shall issue a certificate certifying that the work has been completed and that payment has been made under the contract. The municipality shall file the certificate with the county clerk of the county in which the property is located and shall deliver a copy of the certificate to the property owner.

(i) The property owner, within five years after the date of the issuance of the certificate under Subsection (h), must pay the municipality the amount that the municipality paid for the completed work as evidenced by the certificate, plus simple interest in an amount not to exceed 10 percent a year as set by the governing body of the municipality. On payment of the principal amount and accrued interest, the municipality shall issue a release of the assessment and lien. The release may be filed for record as provided by law.

(j) If the property owner does not pay the assessment during the five-year period, the municipality may enforce the lien on the property in the same manner in which it is authorized by law to enforce the lien for a paving or other assessment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 402.901 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.902. OPERATION OF CERTAIN ELECTRIC LIGHT AND POWER SYSTEMS BY HOME-RULE MUNICIPALITIES. (a) If a home-rule municipality, whose charter authorizes it to furnish electric light and power service inside and outside the municipal boundaries, owned and operated a municipal electric system as of July 4, 1949, and on that date owned and operated a rural electric system as a unit separate from the municipal system, and if the governing body of the municipality set up a rural electric system as a separate system, the bonds, mortgages, warrants, or other evidences of indebtedness are obligations of the system which they benefitted. The obligations of one system do not apply to or affect the other system.

(b) Any issued obligation of a system is not a debt of the municipality but is only a charge on the properties of the system and may not be considered in determining the ability of the municipality to issue bonds for any purpose authorized by law.

(c) The expense of operation and maintenance of each system is a first lien and charge against the income of the system. Operation and maintenance expenses include salaries, labor, repairs, cost of electrical energy, interest, repairs or extensions necessary for efficient service, and other proper operation and maintenance expenses.

(d) The governing body of the municipality shall charge and collect for each service a rate sufficient to:

(1) pay operation and maintenance expenses, depreciation, replacement, improvement, and interest;

(2) pay the principal of and interest on obligations issued against each system separately; and

(3) maintain any reserves required by the ordinance authorizing the issuance of the obligations.

(e) None of the income of a system may be used to pay any other debt, expense, or operation until the secured indebtedness is finally paid.

(f) Each evidence of indebtedness issued by a municipality to which this section applies must contain the clause: "The holder of the instrument hereof shall never have the right to demand payment of

this obligation out of any funds raised or to be raised by taxation." The evidence of indebtedness must be payable not more than 40 years from the date of the instrument and may bear interest at a rate not to exceed five percent a year. The instrument must be signed by the mayor and countersigned by the municipal secretary. Facsimile signatures of those officers may be printed on interest coupons attached to the instrument.

(g) A municipality to which this section applies is not required to submit an instrument issued against either of the systems to any public official of this state. The only approval required or authorized by this section is that of the governing body of the municipality. An obligation issued under this section is not contestable after issuance and delivery except for fraud and forgery.

(h) This section does not authorize a municipality to construct facilities or furnish electric power and energy to an area served with central station electric service as of July 4, 1949.

(i) An obligation issued under this section is exempt from state or local taxation.

(j) After a finding that a merger is in the best interests of its separately owned rural electric system and its municipal electric system, the governing body of a municipality to which this section applies may by ordinance order a merger of the systems. After the merger, all laws relating to the municipal electric system, including laws relating to authorization and issuance of bonds, apply to the merged system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.902 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.903. AGREEMENT WITH CONSERVATION AND RECLAMATION DISTRICT. (a) A municipality may agree or contract with a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution for the supply and purchase of hydroelectric power or energy. The agreement or contract shall be for a period and contain the terms and conditions agreed on by the parties. The agreement or contract is a valid and binding municipal obligation that is enforceable as provided by its terms.

(b) The agreement or contract may provide for the municipality to pay for the hydroelectric power or energy whether or not the power or energy is produced or delivered to the municipality. The agreement or contract may include provisions relating to acquiring, constructing, and equipping generation and transmission facilities to supply the power and energy, provisions relating to financing the costs of the generation and transmission facilities, and provisions that the agreement or contract continues in effect while any obligations specified in the agreement or contract, including refunding obligations, remain outstanding. The provisions shall be as specified in the agreement or contract.

(c) If provided in the agreement or contract, the amounts required to be paid by the municipality to the district under the agreement or contract are an operating expense of the electric system, or combined utility system of which the electric system is a part, in the manner provided for other operating and maintenance expenses of the electric system or combined utility system as provided by Section 1502.056, Government Code.

(d) Notwithstanding any express or implied limitation on municipal power or purposes under any general or special law, charter provision, or ordinance, this section is authority for the performance of an agreement or contract entered into under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.06, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.351, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.903 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.904. LEASE OF NATURAL GAS DISTRIBUTION SYSTEM BY CERTAIN MUNICIPALITIES. (a) A municipality that owns its natural gas distribution system and that has conducted an election before July 13, 1959, that resulted in a vote to sell the system may, by majority vote of the governing body, enter a contract to lease the system to any person. The municipality may also grant an option to the lessee or other person to purchase the system at a price specified or determined in the manner provided by the lease or option

contract.

(b) If the municipality has any outstanding bonds that are payable from the revenues of the system, unless the municipality provides for the full payment of the bonds with interest to their maturities or to the date the bonds are to be redeemed before maturity, it may not enter a lease or option contract except under the conditions specified in the ordinance that authorized the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.904 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.905. OPERATION OF CABLE TV SYSTEMS BY GENERAL-LAW MUNICIPALITIES. A general-law municipality may own and/or operate a cable TV system.

Added by Acts 1995, 74th Leg., ch. 674, Sec. 1, eff. Aug. 28, 1995. Renumbered from Local Government Code, Section 402.905 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.906. MUNICIPAL UTILITY PLANTS. (a) This section applies only to a general-law municipality that owns a utility plant that provides utility service.

(b) The governing body of a municipality may:

(1) by ordinance regulate the rates and compensation charged the public by the municipality for utility service;

(2) establish and operate a plant to manufacture, generate, or produce utility service; and

(3) sell and distribute utility service to the public in the municipality's boundaries.

(c) In this section, "utility service" means the provision of water, sewer service, gas, electric energy, or a substance used for lighting, heat, or power.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 4, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.906 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1,

2009.

Sec. 552.907. CONSTRUCTION OF WATER OR WASTEWATER IMPROVEMENTS TO PRESERVE WATER QUALITY AQUIFER. (a) This section applies only to territory located in a municipality or in the extraterritorial jurisdiction of a municipality and located over the recharge zone of an aquifer that provides all or part of the water supply of the municipality.

(b) To preserve the quality of the aquifer, the municipality or a person with whom the municipality contracts may:

(1) construct a sanitation sewer lateral or water lateral that serves a residential structure on private property to connect the lateral to a new, renovated, or rebuilt sanitation main or water main constructed by or for the municipality; and

(2) take any action necessary to remedy aquifer pollution problems caused by septic tanks or septic systems located on the property, including filling in the tank or system or removing the tank or system.

(c) The municipality shall assess the cost of the water or wastewater improvements under Subsection (b)(1) or Subsections (b)(1) and (b)(2), as applicable, against the property on which the lateral is located. A lien attaches to the property for the cost of the improvements.

(d) Before a municipality acts under Subsection (b), the municipality must give notice to the property owner and obtain the property owner's written consent to the activity to be performed and to the amount of the assessment.

(e) The notice provided under Subsection (d) must state the estimated cost to the property owner of the improvements and state that the cost may be increased by not more than 10 percent because of changes without the written consent of the owner. The municipality shall give the notice to the owner by personal delivery or by depositing the notice in the United States mail with postage prepaid.

(f) To be valid, the owner's written consent must:

(1) state that the person giving the consent is the property owner or the authorized representative of the property owner;

(2) state the owner's address; and

(3) state that:

(A) the consent is given freely;

(B) the owner understands that as a result of the assessment a lien attaches to the property for the total cost of the improvements;

(C) the municipality will not pay any part of the cost of the improvements; and

(D) the owner will repay the cost to the municipality on or before the fifth anniversary of the date the municipality certifies the work is completed.

(g) The municipality shall file the written consent of the property owner with the municipal clerk or secretary.

(h) If the municipality contracts with another person to perform the work, the contract must be awarded in compliance with the competitive bidding requirements applicable to the municipality. The provisions of the contract must comply with any law applicable to the construction of public improvements by the municipality. The contract may be changed as necessary for the successful completion of the work, but the contract price may not be increased by more than 10 percent because of those changes without the written consent of the owner as provided by Subsection (e).

(i) When the work is completed, the municipality shall issue a certificate certifying that the work has been completed and the cost of the improvements. The municipality shall file the certificate with the county clerk of the county in which the property is located and shall deliver a copy of the certificate to the property owner. The certificate must contain the legal description of the land and name of the property owner. The lien created pursuant to this section shall attach and arise when the certificate is recorded in the real property records. The lien is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the recording of the certificate.

(j) The property owner, on or before the fifth anniversary of the date of the issuance of the certificate, must pay the municipality the amount that the completed work cost the municipality as evidenced by the certificate, plus simple interest in an amount not to exceed 10 percent a year as set by the governing body of the municipality. On payment of the principal amount and accrued interest, the municipality shall issue a release of the assessment and lien. The release may be filed for record as provided by law.

(k) If the property owner does not pay the assessment during the five-year period, the municipality may enforce the lien on the property in the same manner in which it is authorized by law to enforce the lien for a paving or other assessment.

Added by Acts 1997, 75th Leg., ch. 171, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 402.906 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(87), eff. Sept. 1, 1999.
Renumbered from Local Government Code, Section 402.907 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.909. PROHIBITED EMPLOYMENT OF OR CONTRACTING WITH FORMER TRUSTEE OR BOARD MEMBER. (a) This section applies to a municipality that creates a board of trustees or other board to manage and control a water, wastewater, storm water, or drainage utility system that the municipality owns.

(b) The municipality or a board of trustees or other board described by Subsection (a) may not employ or contract with an individual who was a member of the board before the second anniversary of the date the individual ceased to be a member of the board.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 38, eff. June 17, 2001. Renumbered from Local Government Code, Section 402.909 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.910. AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS FOR COLLECTION OF PAST DUE UTILITY OR SOLID WASTE DISPOSAL SERVICE FEES. (a) A municipality that operates a utility system, as defined by Section 552.001, or provides solid waste disposal services may enter an agreement for the collection of unpaid utility charges or solid waste disposal services fees with:

(1) another municipality that operates a utility system;

(2) a county or public agency that provides solid waste disposal services; or

(3) another political subdivision acting on behalf of a municipality, county, or public agency to assist in the collection of

unpaid utility charges or solid waste disposal fees.

(b) The agreement may provide that a municipality:

(1) may refuse to provide utility service to a person if the person is past due on utility charges or solid waste disposal services fees owed to another party to the agreement; or

(2) may collect an amount equal to the past due utility charges or solid waste disposal services fees owed to another party to the agreement plus a service charge and provide the utility service the person requests.

(c) The agreement shall provide for:

(1) the confidentiality of a person's utility or solid waste disposal account information and the prevention of disclosure to a person or other entity that is not a party to the agreement; and

(2) the apportionment of any past due charges, fees, and service charges authorized by Subsection (b)(2) between the collecting entity and the entity to which the fees are owed.

Added by Acts 2003, 78th Leg., ch. 271, Sec. 1, eff. June 18, 2003. Renumbered from Local Government Code, Section 402.910 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(13), eff. April 1, 2009.

Sec. 552.911. DUTIES OF WATER SERVICE PROVIDER TO AN AREA SERVED BY SEWER SERVICE OF CERTAIN POLITICAL SUBDIVISIONS. (a) This section applies only to an area:

(1) that is located in a county that has a population of more than 1.3 million; and

(2) in which a customer's sewer service is provided by a municipality or conservation and reclamation district that also provides water service to other customers and the same customer's water service is provided by another entity.

(b) For each person the water service provider serves in an area to which this section applies, the water service provider shall provide the municipality or district with any relevant customer information so that the municipality or district may bill users of

the sewer service directly and verify the water consumption of users. Relevant customer information provided under this section includes the name, address, and telephone number of the customer of the water service provider, the monthly meter readings of the customer, monthly consumption information, including any billing adjustments, and certain meter information, such as brand, model, age, and location.

(c) The municipality or district shall reimburse the water service provider for its reasonable and actual incremental costs for providing services to the municipality or district under this section. Incremental costs are limited to only those costs that are in addition to the water service provider's costs in providing its services to its customers, and those costs must be consistent with the costs incurred by other water utility providers. Only if requested by the wastewater provider, the water service provider must provide the municipality or district with documentation certified by a certified public accountant of the reasonable and actual incremental costs for providing services to the municipality or district under this section.

(d) A municipality or conservation and reclamation district may provide written notice to a person to whom the municipality's or district's sewer service system provides service if the person has failed to pay for the service for more than 90 days. The notice must state the past due amount owed and the deadline by which the past due amount must be paid or the person will lose water service. The notice may be sent by mail or hand-delivered to the location at which the sewer service is provided.

(e) The municipality or district may notify the water service provider of a person who fails to make timely payment after the person receives notice under Subsection (d). The notice must indicate the number of days the person has failed to pay for sewer service and the total amount past due. On receipt of the notice, the water service provider shall discontinue water service to the person.

(f) This section does not apply to a nonprofit water supply or sewer service corporation created under Chapter 67, Water Code, or a district created under Chapter 65, Water Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.32, eff. September 1, 2007.
Transferred from Local Government Code, Section 402.911 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(68), eff. September

1, 2009.

Sec. 552.912. CERTAIN DAMAGES CAUSED BY SEWAGE BACKUP. (a) A municipality or a river authority, other than a river authority listed in Subsection (c), may pay actual property damages caused by the backup of the municipality's or river authority's sanitary sewer system regardless of whether the municipality or river authority would be liable for the damages under Chapter 101, Civil Practice and Remedies Code.

(b) This section does not waive governmental immunity from suit or liability.

(c) This section does not apply to the Trinity River Authority, the San Jacinto River Authority, the Sabine River Authority, or the Lower Neches Valley River Authority.

Added by Acts 2009, 81st Leg., R.S., Ch. 1119 (H.B. 1174), Sec. 1, eff. June 19, 2009.

Sec. 552.913. COMBINED HEATING AND POWER SYSTEMS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a home-rule municipality that:

(1) has a population of more than 100,000;

(2) owns and operates an electric utility that is a member of a municipal power agency; and

(3) is located in a county adjacent to a county with a population of more than 2.5 million.

(b) To the extent this section conflicts with a municipal charter provision, this section controls.

(c) A municipality may buy, own, construct, maintain, and operate a combined heating and power system or plant and related infrastructure.

(d) The governing body of the municipality may designate a combined heating and power economic development district that includes territory that:

(1) is within three miles of the combined heating and power plant;

(2) is wholly located within the corporate boundaries of the municipality; and

(3) does not have an interstate or federal highway located within the boundaries of the district on the date the territory is designated.

(e) The municipality may sell an energy commodity from the system or plant, including electricity, chilled water, steam, or gas. The municipality may sell gas only to industrial customers located in the combined heating and power economic development district.

(f) The municipality shall assess fees against a municipal entity selling gas to industrial customers in the combined heating and power economic district that are substantially the same as the fees assessed against a gas utility that is not owned by the municipality for occupation of a municipal right-of-way.

Added by Acts 2011, 82nd Leg., R.S., Ch. 38 (S.B. 1230), Sec. 1, eff. May 9, 2011.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 199, eff. September 1, 2023.

Sec. 552.914. UTILITY CONTRACTS FOR CERTAIN MUNICIPALITIES. (a) In this section, "utility system" means an electric, water, sewer, solid waste disposal, drainage utility, or natural gas system, or any combination of those systems.

(b) This section applies only to a municipality described by Section 1502.070(a)(2)(C), Government Code.

(c) Notwithstanding any limitation provided by a home rule charter, the governing body, board of trustees, or other entity vested with the management and control of the municipality's utility system may contract for the purchase of electricity under terms the governing body, board of trustees, or other entity considers appropriate.

Added by Acts 2013, 83rd Leg., R.S., Ch. 98 (S.B. 795), Sec. 2, eff. May 18, 2013.

Sec. 552.915. RECORDS OF MUNICIPALLY OWNED ELECTRIC UTILITY PROVIDING BROADBAND SERVICES. (a) In this section, "broadband service" has the meaning assigned by Section 181.048, Utilities Code.

(b) This section applies only to a municipally owned utility

that:

(1) provides electricity and broadband services; and

(2) provided electricity services and cable, Internet, or broadband services on or before January 1, 2003.

(c) A municipally owned utility shall maintain separate books and records of broadband service operations and shall ensure that the rates charged for provision of electric service do not include any broadband service costs or any other costs not related to the provision of electric service.

Added by Acts 2023, 88th Leg., R.S., Ch. 1148 (S.B. 983), Sec. 2, eff. September 1, 2023.

Sec. 552.916. PROHIBITION ON RATE DISCRIMINATION. A municipality may not establish a rate for water or sewer utility service applicable only to entities that qualify for a sales tax or ad valorem tax exemption that is higher than a rate established for entities that receive comparable utility service.

Added by Acts 2025, 89th Leg., R.S., Ch. 553 (H.B. 685), Sec. 1, eff. September 1, 2025.

SUBTITLE B. COUNTY WATER

CHAPTER 561. WATER CONTROL BY COUNTIES

Sec. 561.001. FLOOD CONTROL PROPERTY; CONDEMNATION. (a) A county may acquire public or private real property, including easements and rights-of-way, for the purpose of building canals, drains, levees, and other improvements to provide for flood control and water outlets. The county has the right of eminent domain to make an acquisition under this section.

(b) An appeal from a finding and assessment of damages by special commissioners in a condemnation case does not act to suspend the work for which the property is acquired.

(c) A county may, if the commissioners court of the county considers it necessary, obtain the fee title to the property that is the subject of the condemnation. However, a county may not obtain through condemnation the fee title to property lawfully used or occupied by a public utility, railroad, canal, levee, or any other person devoting its property to a public use. This prohibition does

not prevent the county from condemning an easement or a right-of-way in favor of the county.

(d) If the commissioners court considers it necessary to condemn an easement on the property of a person that also has the power of eminent domain, the expense of acquisition, construction, and maintenance of the flood control or drainage project is the obligation of the county, flood control district, or drainage district, as the case may be.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 411.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.002. JOINT PROJECT. (a) The commissioners court of a county may contract with a governmental unit, including a county, municipality, or other political subdivision, to jointly acquire a right-of-way or to jointly construct or maintain a canal, drain, levee, or other improvement for the purpose of providing flood control or drainage as it relates to flood control or for the purpose of providing and maintaining necessary outlets.

(b) The contract may contain any provisions that the governing bodies of the contracting entities consider necessary.

(c) The contracting entities may provide by contract, on mutually agreeable terms, that they shall jointly maintain the project or that one of them shall maintain the project under its exclusive direction and control while the other entity contributes to the expense of maintenance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 411.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.003. PLANS AND PROGRAMS. (a) The commissioners court of a county may contract with the federal soil conservation service, a state soil conservation district, the state extension service, a conservation and reclamation district, a drainage district, a water control and improvement district, a navigation district, a flood

control district, a levee improvement district, or a municipality as provided by Section 256.006, Transportation Code, for the purpose of carrying out plans and programs for flood control and soil conservation. The contract may provide that payments due under the contract are payable from and secured by a pledge of any revenue of the county or the county's ad valorem taxes or a combination of those revenues and taxes.

(b) The contract may divide or delegate among the contracting parties the responsibility and cost of carrying out the plans and programs and may be for a specified term of years or may terminate when the plans or programs have been accomplished.

(c) The contract may provide that, if the contracting agency, district, or municipality issues bonds payable from and secured by revenues derived from the contract, the contract will continue in effect until the bonds, or any refunding bonds issued in their place, are fully paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.228, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1183, Sec. 8, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 411.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.004. SURVEY BY COUNTY WITH TAX VALUATION OF $290 MILLION OR MORE. In a county with a tax valuation of $290 million or more according to the most recently approved county tax roll, the commissioners court of the county may spend not more than $15,000 in any one year out of the general fund of the county to make a preliminary engineering survey relating to drainage, reclamation, conservation, levee improvement, or water control.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 411.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.005. COOPERATION WITH UNITED STATES. (a) The commissioners court of a county that borders Mexico, or of a county

adjacent to a county that borders Mexico, may, in consideration of the benefits of flood control work performed by the United States, by resolution agree to:

(1) indemnify and hold harmless the United States and its officers, agents, or employees for damage or a claim for damage asserted by any person if:

(A) the damage or claim arises from or is connected with the action of the United States or its officers, agents, or employees in entering, occupying, constructing on, or exercising a right in or to land located in the county; and

(B) the action by the United States or its officers, agents, or employees is in connection with the construction, reconstruction, alteration, extension, improvement, maintenance, or operation of flood control works or works that are connected or incidental to flood control works;

(2) obtain any release or waiver of claims and provide evidence of the county's interest in land located in the county and needed for flood control works or works that are connected or incidental to flood control works, as required by the United States; and

(3) acquire and without monetary compensation convey to the United States any interest in land located in the county and needed for flood control works, on request of the United States.

(b) The commissioners court, county attorney, and county engineer shall do all things useful and necessary to carry out the provisions of the agreement.

(c) If the agreement provides for the conveyance of an interest in land to the United States, the county judge may convey the interest by warranty deed on behalf of the county according to the terms of the agreement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 411.005 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.006. GRANT OF SEAWALL RIGHT-OF-WAY. (a) The commissioners court of a county by order may, if it considers it proper, donate and grant to the state or to a nonprofit eleemosynary

institution incorporated under the laws of this state and operated for the benefit of the public any part of a seawall right-of-way acquired by the county.

(b) If the commissioners court determines that a seawall right-of-way should be donated, the county judge may convey the property in accordance with the order of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 411.006 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.007. MASTER DRAINAGE PLAN FOR CERTAIN COUNTIES. (a) This section applies only to a county that:

(1) has a population of 190,000 or more, is adjacent to a county with a population of 3.3 million or more, and borders the Gulf of Mexico; and

(2) operates a road department system under Subchapter D, Chapter 252, Transportation Code.

(b) The commissioners court may require the county road engineer to prepare and coordinate a county master drainage plan. The commissioners court by order may adopt regulations to implement the county master drainage plan.

Added by Acts 1997, 75th Leg., ch. 989, Sec. 1, eff. Sept. 1, 1997.
Renumbered from Local Government Code, Section 411.007 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 102, eff. September 1, 2011.

Sec. 561.008. BREAKWATERS IN CERTAIN COUNTIES. (a) The commissioners court of a county that borders the Gulf of Mexico, other than Jefferson, Kenedy, Kleberg, Nueces, Orange, or Willacy County, may:

(1) construct breakwaters;

(2) issue bonds, time warrants, or certificates of indebtedness of the county to pay for the construction; and

(3) impose ad valorem taxes to pay the bonds, warrants, or certificates.

(b) The commissioners court shall:

(1) issue any bonds and impose related taxes in compliance with Subtitles A and C, Title 9, Government Code; or

(2) issue any time warrants in compliance with Subchapter C, Chapter 262, and impose related taxes in compliance with Chapter 1251, Government Code.

(c) A certificate of indebtedness must be authorized by order of the commissioners court. A certificate of indebtedness must mature not later than 35 years after its date and must be signed by the county judge and attested by the county clerk. The commissioners court shall impose a tax sufficient to pay the principal of and interest on the certificate as they become due.

(d) A county that maintains a permanent improvement fund shall pay the debt incurred under this section from that fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 14, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 41, eff. Sept. 1, 1999.
Renumbered from Local Government Code, Section 411.008 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.009. REFERENDUM ON FLOOD CONTROL TAX AND PROJECTS FUNDED. (a) The commissioners court of a county may order a referendum on the question of whether:

(1) flood control taxes should be increased;

(2) flood control taxes should be decreased; or

(3) an existing or proposed flood control project should receive funding.

(b) The ballot for a referendum under this section shall be printed to permit voting for or against one or more of the following propositions:

(1) "Whether the flood control tax imposed under Section 1-a, Article VIII, Texas Constitution, should be increased by (state amount of increase as a percentage or as a specific amount)";

(2) "Whether the flood control tax imposed under Section 1-a, Article VIII, Texas Constitution, should be decreased by (state

amount of decrease as a percentage or as a specific amount)"; or

(3) "Whether the following flood control projects should receive funds generated by the flood control tax imposed under Section 1-a, Article VIII, Texas Constitution (list any flood control projects designated by the commissioners court as available for funding)."

(c) If a majority of votes cast in the referendum approve an increase in the flood control tax, the flood control tax is increased. If a majority of votes cast in the referendum approve a decrease in the flood control tax, the flood control tax is decreased. A flood control project for which a majority of the votes cast at the referendum do not approve funding may not receive funds from revenue generated by the flood control tax.

Added by Acts 2001, 77th Leg., ch. 273, Sec. 1, eff. May 22, 2001. Renumbered from Local Government Code, Section 411.009 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.010. PROVISION OF FLOOD RELIEF TO COLONIAS. (a) In this section, "colonia" means a geographic area that consists of 11 or more dwellings located in close proximity to each other in an area that may be described as a community or neighborhood and that:

(1) has a majority population composed of individuals and families of low income, as defined by Section 2306.004, Government Code, and based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under Section 17.921, Water Code; or

(2) has the physical and economic characteristics of a colonia, as determined by the Texas Department of Housing and Community Affairs.

(b) A county may provide assistance for the removal from private property, including a road, of flood water resulting from a natural disaster in a colonia if the removal of the water is necessary to protect the health and safety of the colonia.

Added by Acts 2009, 81st Leg., R.S., Ch. 383 (H.B. 1579), Sec. 1, eff. June 19, 2009.

CHAPTER 562. COUNTY WATER SUPPLY
SUBCHAPTER A. SALE OF SURPLUS WATER

Sec. 562.001. DEFINITION. In this subchapter, "county surplus water" means water that a county has acquired from an underground source for the county's water supply and that is not needed for county purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 412.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.002. SALE OF SURPLUS WATER; USE OF PROCEEDS. (a) The commissioners court of a county may sell and deliver county surplus water to:

(1) a public corporation of this state; or

(2) a political subdivision of this state, including a municipality, water control and improvement district, or fresh water supply district.

(b) A county shall credit money received from the sale of county surplus water to the general fund of the county and may spend the money for general county purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 412.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.003. ESTABLISHMENT OF RATE. The commissioners court may determine the rate at which county surplus water is sold.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 412.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.004. TERM OF CONTRACT. A contract to sell county surplus water may not exceed a term of 40 years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 412.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.005. USE OR RESALE. A buyer of county surplus water may use or resell the water for any lawful purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 412.005 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

SUBCHAPTER B. WATER SUPPLY AND SEWAGE

Sec. 562.011. MATAGORDA COUNTY. (a) The Commissioners Court of Matagorda County may acquire, construct, or operate a water supply system or sewage system to serve areas of the county located outside the limits of a municipality.

(b) The county may enter a management or lease agreement with another public or private entity for the operation of a county water or sewage system acquired or constructed under this section.

(c) The county may apply for and receive grants or other assistance from a state or federal governmental entity to implement the purposes of this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 412.011 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.012. CONTRACT FOR WATER SUPPLY AND SEWER SYSTEM IN POPULOUS COUNTY. (a) The commissioners court of a county that has a population of more than 1.3 million and in which a municipality with a population of more than one million is primarily located may enter a contract with a district created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution under which the district will provide and operate a water supply system or sewage system in areas of the county located

outside the limits of a municipality.

(b) The commissioners court may distribute federal funds and state water conservation and development funds received by the county to a district that is a party to a contract under this section. Those funds may be used only for the construction, renovation, or maintenance of a water supply system or sewage system that is covered by a contract under this section.

(c) The acts performed and services provided under this section by a district must be within the scope of the powers, duties, and purposes of the district as provided by the laws under which the district was created.

(d) A contract that affects a municipality's extraterritorial jurisdiction as established by Chapter 42 must be submitted to and approved by the municipality.

(e) If a contract under this section affects an area not located within the limits of the contracting district, district funds may not be used to fulfill the contract.

(f) A county and a district that contract under this section must submit the contract to the Texas Commission on Environmental Quality for approval. The commission shall examine the contract to assure that the interests of the residents of the district are served and protected. A county may not enter a contract that the commission determines would jeopardize the quality of service provided by a district to the persons residing in the district. The commission may submit suggested changes to the parties for inclusion in the contract before the commission gives its approval.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 104, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 11.260, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 669, Sec. 109, 110, eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 412.012 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 986 (S.B. 766), Sec. 36, eff. September 1, 2025.

Sec. 562.013. WATER NEEDS OF CERTAIN COUNTIES WITH RIVER. (a)

In a county with a river that flows through it or forms part of its boundary, the commissioners court of the county may, on voter approval, make expenditures from the general fund, or any other available county fund, to conduct an investigation and assemble information relating to the present and future water needs of the county inhabitants and to the feasibility of developing the water resources of the river for uses in the county.

(b) To obtain the voter approval required by Subsection (a), the commissioners court must order an election at which each qualified voter of the county is entitled to vote. The court shall determine the maximum cost of the proposed investigation and shall order the ballots for the election to be printed to provide for voting for or against the proposition: "Spending county funds for the purpose of making a survey of water resources, in an amount not to exceed $_____ (the maximum amount determined by the court)."

(c) If a majority of the ballots cast at the election are in favor of the expenditure, the commissioners court may contract for professional services and incur other necessary expenses in an amount not to exceed the maximum amount fixed for this purpose. If a majority of the ballots cast are opposed to the expenditure, the commissioners court may not spend funds for this purpose, and another election on the proposition may not be held for two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 412.013 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.014. ACQUISITION OF PROPERTY FOR WATER SUPPLY OR TRANSPORT OF WATER. (a) The commissioners court of a county may acquire by purchase, gift, lease, or any other method, except condemnation, any property or an interest in property inside or outside the county that the commissioners court finds necessary to obtain a surface water supply or to transport and deliver surface water.

(b) If the property being acquired is located outside the county, the commissioners court of the county or counties where the property is located shall hold a public hearing and acquisition must be approved by the commissioners court at a regular meeting of the

court.

(c) The commissioners court may contract with any political subdivision of the state for the management and operation of all or part of the property or interests in property and for the beneficial use of the surface water. A contract may be made on terms the commissioners court considers appropriate but may not be for a term of more than 40 years.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 84(a), eff. Aug. 28, 1989. Renumbered from Local Government Code, Section 412.014 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.015. COUNTY WATER AND SEWER UTILITY. An affected county, as defined by Section 16.341, Water Code, may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 552.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 5, eff. June 16, 1995. Renumbered from Local Government Code, Section 412.015 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(14), eff. April 1, 2009.

Sec. 562.016. COUNTY WATER AND SEWER SYSTEM. (a) A county may acquire, own, finance, operate, or contract for the operation of, a water or sewer utility system to serve an unincorporated area of the county in the same manner and under the same regulations as a municipality under Chapter 552. The county must comply with all provisions of Chapter 13, Water Code, that apply to a municipality. However, a county with a population of 2.5 million or more and any adjoining county may, with the municipality's approval, serve an area within a municipality.

(b) To finance the water or sewer utility system, a county may issue bonds payable solely from the revenue generated by the water or sewer utility system. A bond issued under this section is not a debt of the county but is only a charge on the revenues pledged and is not

considered in determining the ability of the county to issue bonds for any other purpose authorized by law. This subsection does not authorize the issuance of general obligation bonds payable from ad valorem taxes to finance a water or sewer utility system. However, a county with a population of 2.5 million or more and any adjoining county may issue general obligation bonds with the approval of qualified voters.

(c) A county may acquire any interest in property necessary to operate a system authorized by this section through any means available to the county, including eminent domain. A county may not use eminent domain under this subsection to acquire property in a municipality. Provided, however, a county with a population of 2.5 million or more and any adjoining county may, with the municipality's approval, use the power of eminent domain under this subsection to acquire property within a municipality.

Added by Acts 1999, 76th Leg., ch. 191, Sec. 1, eff. May 24, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 549 (S.B. 1271), Sec. 1, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 858 (H.B. 1314), Sec. 1, eff. June 15, 2007.

Renumbered from Local Government Code, Section 412.016 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(15), eff. April 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 200, eff. September 1, 2023.

Sec. 562.017. REGULATION OF WATER AND SEWER UTILITY IN POPULOUS COUNTIES. (a) In this section, "water or sewer utility system" means a water or sewer utility system that serves:

(1) an economically distressed area as defined by Section 15.001, Water Code; or

(2) an area listed on:

(A) the state registry by the Texas Commission on Environmental Quality under Subchapter F, Chapter 361, Health and

Safety Code; or

(B) the National Priorities List by the federal Environmental Protection Agency under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601-9675, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(b) A county with a population of 3.3 million or more may by order:

(1) prohibit a person from installing an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code, or installing a water well, if the lot or parcel of land on which the on-site sewage disposal system or water well is to be installed has access to service from a water or sewer system; and

(2) prohibit a person from installing another water or sewer utility system to serve a lot or parcel of land within the area if the lot or parcel of land has access to service from a water or sewer utility system.

(c) A county that adopts an order under Subsection (b) may adopt the order only if the area that has access to service from a water or sewer utility system:

(1) is not served by another legally operating water or sewer utility system at the time the order is adopted; and

(2) was developed before September 1, 1987.

(d) A person who violates an order adopted under this section is liable to the county for a civil penalty of not more than $1,000 for each violation. Each day a violation continues is a separate violation for purposes of assessing the civil penalty.

(e) A county may bring suit in a district court to restrain a violation or threatened violation of an order adopted under this section, recover a civil penalty, or both. The county is not required to give bond as a condition to issuing injunctive relief.

(f) Except as provided in Subsection (g), a county that is involved in selecting a water or sewer utility system and that adopts an order under Subsection (b) may adopt the order only if the county complies with Chapter 262 in selecting the water or sewer utility system.

(g) Section 262.024 does not apply to this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 858 (H.B. 1314), Sec. 2, eff. June 15, 2007.

Transferred from Local Government Code, Section 412.017 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(69), eff. September 1, 2009.

Sec. 562.018. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN BORDER COUNTIES. (a) This section applies only to a county:

(1) that is located adjacent to an international border; and

(2) in which a military installation and a national recreation area are located.

(b) The commissioners court of a county to which this section applies may acquire, construct, or operate a water supply system or a sewage system to serve unincorporated areas of the county.

(c) The county may enter a management or lease agreement with another public or private entity for the operation of a county water or sewage system acquired or constructed under this section.

(d) The county may apply for and receive grants or other assistance from a state or federal governmental entity to implement this section.

(e) The county may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402.

(f) A county may not construct, operate, or maintain a water supply system or sewage system in an area previously served by the county's water supply or sewage system after the area is annexed by a municipality and the municipality begins providing to the area water or sewer services previously provided by the county.

(g) This section does not authorize a county to sell water for a purpose other than for local use.

Added by Acts 2007, 80th Leg., R.S., Ch. 1104 (H.B. 3475), Sec. 1, eff. September 1, 2007.
Transferred from Local Government Code, Section 412.017 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(70), eff. September 1, 2009.

CHAPTER 563. WATER, WASTEWATER, OR SOLID WASTE SYSTEMS IN COUNTIES WITH POPULATION OF 10,000 OR LESS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 563.001. APPLICABILITY OF CHAPTER. This chapter applies only to a county that:

(1) adopts an order under Section 563.052; and

(2) has a population of 10,000 or less, according to the most recent federal census, on the date on which the order is adopted.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(16), eff. April 1, 2009.

Sec. 563.002. COUNTY FINANCING OF WATER OR WASTEWATER SYSTEM. The commissioners court of a county may spend money in the general fund of the county or issue and sell bonds to finance the county's:

(1) wastewater collection and treatment system; or

(2) water supply and distribution system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

SUBCHAPTER B. COUNTY UTILITY SYSTEM BOARD FOR WATER, WASTEWATER, OR SOLID WASTE SYSTEM

Sec. 563.051. DEFINITION. In this subchapter, "board" means a county utility system board established under Section 563.052.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.051 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(17), eff. April 1, 2009.

Sec. 563.052. AUTHORITY TO ESTABLISH BOARD. (a) The commissioners court of a county by order adopted at a regular meeting of the court may establish a county utility system board to operate and manage the county's:

(1) wastewater collection and treatment system;

(2) water supply and distribution system; or

(3) solid waste collection and disposal system.

(b) The board is responsible for the operation and management of each utility system that is:

(1) owned or being acquired by the county; and

(2) placed under its control under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.052 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.053. BOARD COMPOSITION. (a) The board is composed of five directors.

(b) One director must be a member of the commissioners court appointed by the court at its first meeting of each county fiscal year.

(c) Four directors are elected by voters in the county. The elected positions are designated as positions 1, 2, 3, and 4. Elected directors serve two-year terms with the terms of positions 1 and 3 beginning October 1 of each odd-numbered year and the terms of positions 2 and 4 beginning October 1 of each even-numbered year. A candidate must be a qualified voter of the county.

(d) An election shall be held on the second Saturday of each September to fill the appropriate director positions.

(e) The commissioners court shall appoint temporary directors to serve until the initially elected directors take office.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.053 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.054. BOARD OFFICERS. (a) The directors shall select

a president, vice president, secretary, and treasurer to serve one-year terms.

(b) The president and vice president must be members of the board. The secretary and treasurer are not required to be board members.

(c) The offices of secretary and treasurer may be combined.

(d) The president is the board's chief executive officer and budget officer and shall preside at the meetings of the board.

(e) The vice president shall act as president if the president is incapacitated or absent from a meeting.

(f) The secretary shall keep the records and the minutes of the meetings of the board.

(g) The board shall require the treasurer to give a bond in the amount equal to the estimated amount to be held, at any time, by the treasurer. The board shall pay the bond premium.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.054 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.055. COMPENSATION OF DIRECTORS. A director is entitled to receive:

(1) reimbursement for actual expenses incurred in conducting the business of the board; and

(2) a fee in the amount set by the commissioners court for each meeting attended.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.055 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.056. APPLICABILITY OF OTHER LAW TO BOARD AND COUNTY. (a) The board is subject to:

(1) Subchapter C, Chapter 262;

(2) the open meetings law, Chapter 551, Government Code;

(3) the public information law, Chapter 552, Government Code; and

(4) Chapter 2256, Government Code.

(b) The board is a governmental unit for purposes of Chapter 101, Civil Practice and Remedies Code, and all of its activities are essential governmental functions.

(c) The board and the county when operating under this subchapter are subject to:

(1) Chapter 271;

(2) Chapter 1371, Government Code; and

(3) Subchapters C and D.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.056 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.057. BYLAWS. (a) The board may adopt bylaws to regulate its affairs and establish the area in the county in which it has responsibility for providing utility service.

(b) The bylaws may provide for a seal for the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.057 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.058. UTILITY SYSTEM'S BUDGET. (a) The president of the board, with the assistance of the business manager, shall propose a budget for each utility system under the board's control that includes for the next fiscal year of the county:

(1) the anticipated revenue of that utility system by each source; and

(2) the expenses of that utility system and the board.

(b) The president shall submit the budget to the board not later than June 1 of each year.

(c) The board shall:

(1) schedule a public hearing to consider the budget not later than July 1 of each year;

(2) adopt a final budget not later than July 15 of each year; and

(3) submit the final budget to the commissioners court for consideration as a part of the county budget.

(d) Until the county budget is adopted, the budget for each utility system is the same as the budget for that system in the preceding fiscal year. If a system's preceding budget was for a period shorter than a complete fiscal year, the budget for that system is increased proportionally to cover a fiscal year.

(e) The board and the commissioners court shall include in the budget an amount sufficient to pay and secure any outstanding obligation under this chapter to the extent the obligation is payable from the revenue of a utility system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.058 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.059. DEPOSIT OF REVENUE. (a) Except as provided by Subsection (b), the treasurer of the board shall deposit all revenue from a system operated and managed by the board to the credit of one or more separate accounts in the county depository.

(b) The treasurer may deposit amounts set aside for the payment or security of obligations issued on behalf of the board with the paying agent as provided by the order authorizing the issuance of the obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.059 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.060. DISBURSEMENT OF UTILITY SYSTEM'S MONEY. (a) The board in its bylaws shall provide procedures under which money the board deposits in the county depository may be spent only after the board has determined that the money for payment was properly budgeted. Approval of the board is not required for the transfer of money to a paying agent to pay and secure an outstanding obligation.

(b) A check issued by the board must be signed by at least two persons, at least one of whom is an officer of the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.060 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.061. RATES AND CHARGES. The board may establish rates and charges for services, fees for connections, security deposits, and other charges required for efficient operation of each utility system for which it has responsibility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.061 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.062. USE OF EMINENT DOMAIN PROHIBITED. The board may not exercise the power of eminent domain.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.062 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.063. EXTENSION OR IMPROVEMENT OF SYSTEM. (a) The board may provide for an extension or improvement to a utility system.

(b) The board may not provide for the extension of service to an area within the boundaries or extraterritorial jurisdiction of a municipality or within a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, without the consent of the governing body of the municipality or district.

(c) The service area of the board may not include territory that on June 6, 1993, was served by another utility under a certificate of public convenience and necessity unless the certificate ceases to be effective.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.063 by Acts 2007,

80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.064. PURCHASE OF WATER OR WASTEWATER SYSTEM. With the approval of the commissioners court, the board may purchase an existing privately owned wastewater collection and treatment system or water supply and distribution system that supplies retail utility service in the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.064 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.065. ABOLITION OF CONSERVATION AND RECLAMATION DISTRICT. (a) With the consent of the directors of a conservation and reclamation district located in a county, the commissioners court of the county may assume the outstanding obligations of the district and provide for the abolition of the district.

(b) The territory of the former district remains secondarily liable for the payment of any taxes pledged to the payment of an outstanding debt of the former district until the debt is paid or payment has been provided for, including refunding by the county. The commissioners court as the successor to the district shall impose those taxes in the territory of the former district.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.065 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.066. AUTHORITY TO ISSUE AD VALOREM TAX OBLIGATIONS. (a) The board may not incur or issue an obligation that is payable, in whole or in part, from ad valorem taxes.

(b) The commissioners court of the county by order may authorize on behalf of the board the issuance of obligations payable in whole or in part from ad valorem taxes to acquire, improve, repair, or extend the county's wastewater collection system,

treatment system, water supply and distribution system, or solid waste collection and disposal system.

(c) An order under Subsection (b) must be adopted at a regular meeting of the commissioners court.

(d) If the obligations authorized under this section are payable from ad valorem taxes and revenue, the board must also approve the issuance of the obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.066 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.067. AUTHORITY TO ISSUE REVENUE OBLIGATIONS. The board by resolution may authorize the issuance of obligations for one or more of the purposes described by Section 563.066(b) that are payable solely from the revenue of one or more systems.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.067 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(18), eff. April 1, 2009.

Sec. 563.068. MATURITY. An obligation issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.068 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

SUBCHAPTER C. BONDS FOR WATER OR WASTEWATER SYSTEM

Sec. 563.101. PLEDGE FOR PAYMENT OF BONDS. The commissioners court of a county may provide for the payment of the principal of and interest on bonds issued under this chapter:

(1) by pledging all or part of the county's revenue from its wastewater collection and treatment system or water supply and distribution system; or

(2) from other sources.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.101 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.102. ADDITIONAL BOND SECURITY. (a) Bonds issued under this chapter may be secured additionally by an encumbrance on part or all of the physical property of the wastewater collection and treatment system or water supply and distribution system and each right relating to that property, vesting in the trustee the power to:

(1) operate the property;

(2) sell the property to pay the debt; or

(3) take any other action to secure the bonds.

(b) Regardless of an encumbrance on the property, a trust indenture on the property may:

(1) contain any provision that the commissioners court prescribes for the security of the bonds and the preservation of the trust estate;

(2) provide for amendment or modification of the trust indenture; and

(3) provide for investment of money from the wastewater collection and treatment system or water supply and distribution system.

(c) A purchaser under a sale under the encumbrance on the physical property:

(1) is the absolute owner of the property and the rights purchased; and

(2) may maintain and operate the property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.102 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.103. CONTENTS OF ORDER OR RESOLUTION AUTHORIZING ISSUANCE OF BONDS. (a) An order or resolution of the commissioners court authorizing the issuance of bonds, including refunding bonds, under this chapter may:

(1) provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, a reserve fund, or another fund;

(2) prohibit the further issuance of obligations payable from the pledged revenues or reserve the right to issue additional bonds that are on a parity with, or subordinate to, the lien and pledge on the revenue being used to support the bonds being issued; and

(3) contain any other provision determined by the commissioners court.

(b) The commissioners court may make covenants with respect to the bonds, the pledged revenues, and the operation and maintenance of any facilities the revenue of which is pledged.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.103 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.104. ADOPTION AND EXECUTION OF DOCUMENTS. The commissioners court may adopt and have executed any other proceeding or instrument necessary and convenient in the issuance of bonds under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.104 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.105. MATURITY. A bond issued under this chapter other than a bond issued under Subchapter B must mature not later than 25 years after its date of issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.105 by Acts 2007,

80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.106. AUTHORIZED INVESTMENT FOR SAVINGS AND LOAN ASSOCIATION. A bond issued under this chapter is an authorized investment for a savings and loan association.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.106 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.107. EXEMPTION FROM TAXATION. A bond issued under this chapter, any transaction relating to the bond, and profits made in the sale of the bond are exempt from taxation by this state or by a municipality or other political subdivision of the state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.107 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

SUBCHAPTER D. REFUNDING BONDS

Sec. 563.151. AUTHORITY TO ISSUE REFUNDING BONDS. A county may issue bonds under this subchapter to refund all or part of its outstanding bonds issued under this chapter, including matured but unpaid interest coupons.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.151 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.152. SOURCES AVAILABLE FOR PAYMENT. Refunding bonds issued under this subchapter may be payable from any source, including the source from which the bonds to be refunded are payable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.152 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.153. REGISTRATION. The comptroller shall register refunding bonds issued under this subchapter on surrender and cancellation of the bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.153 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.154. AUTHORITY TO DEPOSIT WITH PAYING AGENT. (a) In an order or resolution authorizing the issuance of refunding bonds, the commissioners court may provide that proceeds from the sale of the bonds are to be deposited with the person at whose location the bonds to be refunded are payable.

(b) If the authorization includes a provision authorized by Subsection (a), the commissioners court may issue the refunding bonds before the cancellation of the bonds to be refunded. The commissioners court shall deposit with the person at whose location the bonds to be refunded are payable an amount sufficient to pay the principal of those bonds and interest on those bonds accruing to the maturity date or to the option date if the bonds have been called for payment before maturity according to their terms.

(c) The comptroller shall register refunding bonds issued under this section without the surrender and cancellation of the bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.154 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

Sec. 563.155. MANNER OF REFUNDING. The refunding may take place in one delivery or in installment deliveries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 15, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 413.155 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(3), eff. April 1, 2009.

SUBTITLE C. WATER PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 571. SEAWALLS AND LEVEES IN COASTAL MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. AUTHORITY OF COUNTY OR MUNICIPALITY BORDERING GULF

Sec. 571.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county or municipality that borders the Gulf of Mexico.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 421.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Sec. 571.002. AUTHORIZED PROJECTS; DEBT. (a) The commissioners court of the county or the municipal authority of the municipality may:

(1) establish, construct, extend, maintain, or improve a seawall, breakwater, levee, floodway, or drainway;

(2) improve, maintain, or beautify a boulevard erected in connection with the seawall, breakwater, levee, floodway, or drainway; and

(3) for purposes of implementing Subchapter H, Chapter 33, Natural Resources Code:

(A) participate as a qualified project partner for an erosion response project undertaken by the General Land Office, as those terms are defined by Section 33.601, Natural Resources Code; and

(B) undertake or contribute to the funding of:

(i) beach renourishment on public beaches, as defined by Section 61.012, Natural Resources Code; or

(ii) any other erosion response project as defined

by Section 33.601, Natural Resources Code, on waterways, bays, and bay shorelines.

(b) The commissioners court or municipal authority may incur debt for a purpose authorized under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 485, Sec. 1, eff. June 20, 2003. Renumbered from Local Government Code, Section 421.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Sec. 571.003. USE OF PUBLIC PROPERTY. (a) The commissioners court or municipal authority may impose additional uses or restrictions on a street, alley, public highway, or other public ground necessary for the location, construction, or maintenance of a seawall, breakwater, levee, floodway, or drainway.

(b) The commissioners court or municipal authority may authorize an additional use of the seawall, breakwater, levee, floodway, or drainway if that use will not impair the efficiency of the seawall, breakwater, levee, floodway, or drainway.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 421.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Sec. 571.004. ACQUISITION OF PROPERTY; EMINENT DOMAIN. (a) The county or municipality may acquire property that is necessary for the establishment, construction, and maintenance of a seawall, breakwater, levee, floodway, or drainway.

(b) The county or municipality may exercise the right of eminent domain to condemn an interest in real property for the purposes described by Subsection (a). The county or municipality must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code.

(c) Before exercising the power of eminent domain under this section the commissioners court or municipal authority, by order, ordinance, or resolution entered in its minutes, shall define and describe the real property to be acquired and shall determine whether

an easement or fee simple interest in the real property is to be taken.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 421.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Sec. 571.005. CESSION OF USE AND CONTROL OF STATE LAND. The state cedes to a county or municipality that uses this subchapter the right to the use and control of as much of the land and sea bottom below high tide that the commissioners court or municipal authority considers necessary for the purposes prescribed by this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 421.005 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Sec. 571.006. TAX; BONDS. (a) The commissioners court or municipal authority may impose a tax to pay the debt incurred under Section 571.002. The rate of the tax in any year may not exceed 50 cents on each $100 of the taxable value of property taxable by the county or municipality.

(b) The commissioners court or municipal authority may issue bonds under this subchapter for the payment of the debt, but, if revenue from the tax will not pay off the debt within five years, the commissioners court or municipal authority shall issue bonds for the payment of the debt.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 421.006 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(19), eff. April 1, 2009.

Sec. 571.007. PREREQUISITES FOR ISSUING BONDS; ELECTION. (a) Before the commissioners court or municipal authority may issue bonds under this subchapter:

(1) the commissioners court or municipal authority shall prescribe the amount of and the rate of interest on bonds to be issued; and

(2) the tax proposed to pay the interest and sinking fund on the bonds must be approved by a majority of the voters of the county or municipality, as appropriate, voting at an election held on the proposed tax.

(b) The election shall be held in accordance with Chapter 1251, Government Code. In addition to the notice required under Section 1251.003, Government Code, and Chapter 4, Election Code, the commissioners court or municipal authority shall mail to each registered voter in the county or municipality a copy of the ballot proposition before the 10th day preceding the date of the election.

(c) The commissioners court or municipal authority shall issue any bonds under this subchapter in compliance with the applicable provisions of Subtitles A and C, Title 9, Government Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 421.007 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Sec. 571.008. ELECTION RESULTS. If the canvass of the election returns shows that the requisite number of voters voted in favor of the proposition, the commissioners court or municipal authority may issue the bonds and impose the tax for the purposes provided by this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 421.008 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Sec. 571.009. GENERAL LAW APPLICABLE TO BONDS. A bond issued under this subchapter is subject to other law regulating bonds issued by counties and municipalities to the extent that law does not

conflict with this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 421.009 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Sec. 571.010. HANDLING OF BOND PROCEEDS AND TAXES. (a) All amounts received from the sale of bonds under this subchapter shall be deposited with the county or municipal treasurer, as appropriate. The county or municipal treasurer shall hold the amounts in trust exclusively for the purposes prescribed by this subchapter.

(b) The county or municipality shall hold all taxes collected to pay the interest on and principal of bonds issued under this subchapter in trust for the payment of the interest and principal. Any amount that exceeds the amount required to pay the annual interest on the bonds may be invested for the benefit of the sinking fund in:

(1) bonds issued under this subchapter;

(2) bonds of the state; or

(3) bonds of the United States.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 421.010 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

Sec. 571.011. COOPERATION AND CONTRACTS WITH UNITED STATES. (a) The commissioners court or municipal authority may cooperate and contract with the United States for grants, loans, or advance payments to carry out any of the powers or purposes prescribed by this subchapter.

(b) The commissioners court or municipal authority may contribute and pay to the United States all or any part of the proceeds of bonds they have issued and sold under this subchapter, in connection with any project undertaken by the federal government affecting or relating to the construction or maintenance of a seawall, boulevard, or other project authorized under this subchapter.

(c) It is the purpose of this section to confer on the commissioners court or municipal authority the fullest possible power of contract with regard to projects of common interest enumerated in this subchapter, when these projects are approved by an act of the United States Congress.

Renumbered from Sec. 421.001 and amended by Acts 1999, 76th Leg., ch. 227, Sec. 16, eff. Sept. 1, 1999.
Renumbered from Local Government Code, Section 421.011 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(1), eff. April 1, 2009.

CHAPTER 572. PUBLIC UTILITY AGENCIES FOR PROVISION OF WATER OR SEWER SERVICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 572.001. DEFINITIONS. In this chapter:

(1) "Facility" means a facility necessary or incidental to the collection, transportation, treatment, or disposal of sewage or to the conservation, storage, transportation, treatment, or distribution of water, including a plant site, right-of-way, and property, equipment, or right of any kind useful in connection with the collection, transportation, treatment, or disposal of sewage or with the conservation, storage, transportation, treatment, or distribution of water.

(2) "Private entity" means an entity, other than a public entity, involved solely in financing, constructing, operating, or maintaining water and sewer facilities.

(3) "Public entity" means a political entity or corporate body of this state, including a county, municipality, or district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, or a water supply or sewer service corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.
Renumbered from Local Government Code, Section 422.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 1, eff. May 20, 2025.

Sec. 572.002. EFFECT OF CHAPTER. This chapter does not affect:

(1) the statutory purposes relating to the establishment, operation, or regulation under the Water Code or other applicable law of a public entity that may become a co-owner of a public utility agency under this chapter; or

(2) a public or private entity's rights or powers in effect on August 27, 1979.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.003. CONSTRUCTION. This chapter shall be liberally construed to carry out its purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.004. CONFLICTS WITH OTHER LAW. This chapter prevails to the extent of a conflict between this chapter and any other law, including:

(1) a law regulating the affairs of a municipal corporation; or

(2) a home-rule charter provision.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

SUBCHAPTER B. COOPERATION BY PUBLIC AND PRIVATE ENTITIES

Sec. 572.011. AUTHORITY TO JOINTLY OWN FACILITIES. Two or more public entities that have the authority to engage in the collection,

transportation, treatment, or disposal of sewage or the conservation, storage, transportation, treatment, or distribution of water may join together as cotenants or co-owners to plan, finance, acquire, construct, own, operate, or maintain facilities to:

(1) achieve economies of scale in providing essential water and sewage systems to the public;

(2) promote the orderly economic development of this state; and

(3) provide environmentally sound protection of this state's future water and wastewater needs.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.011 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.012. GENERAL RIGHTS, POWERS, AND DUTIES OF PUBLIC ENTITIES. (a) Each participating public entity may:

(1) use the entity's money to plan, acquire, construct, own, operate, and maintain its interest in a facility;

(2) share in the facility;

(3) issue bonds and other securities to raise money for a purpose described by Subdivision (1) in the same manner and to the same extent and subject to the same conditions as would be applicable if the public entity had sole ownership of the facility;

(4) acquire, for the use and benefit of each participating public entity, land, easements, and property for a facility by purchase or by exercising the power of eminent domain;

(5) transfer or otherwise convey the land, property, or property interest or otherwise have the land, property, or property interest become vested in other participating public entities to the extent and in the manner agreed between the entities;

(6) make an acquisition described by Subdivision (4) through a purchase from a public or private entity; and

(7) for the use and benefit of each participating public entity, acquire by purchase a public utility, as defined by Section 13.002, Water Code, other than an affected county.

(b) In relation to a participating public entity's undivided interest in a facility, the entity has each right, privilege,

exemption, power, duty, and liability the entity would have if the entity had sole ownership.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.012 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.
Amended by:
Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 2, eff. May 20, 2025.

Sec. 572.013. USE OF EMINENT DOMAIN. (a) A participating public entity has the power of eminent domain to be exercised as provided by this section.

(b) The use of eminent domain authority by a participating public entity is governed by the law relating to an eminent domain proceeding involving a municipality in this state.

(c) A participating public entity may acquire a fee title to the condemned real property, excluding mineral interests.

(d) A participating public entity may not use eminent domain authority to acquire an interest in a facility that belongs to another public entity or a private entity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.013 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.014. EXEMPTION FROM TAXATION. A participating public entity is entitled to each constitutional or statutory ad valorem or other tax exemption attributable to the jointly owned facility or to a property or service bought, sold, leased, or used to construct, maintain, repair, or operate the facility to the extent that the entity would have been exempt from the tax if the entity's undivided interest were an entire interest in the facility or in the property or service. The entity is entitled to any applicable exemption certificate or statement provided by law to claim or prove the exemption.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.014 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

SUBCHAPTER C. PUBLIC UTILITY AGENCIES

Sec. 572.051. DEFINITIONS. In this subchapter:

(1) "Concurrent ordinance" means an ordinance or resolution adopted under this subchapter by two or more public entities.

(2) "Obligation" means a bond or note secured by a fee, a charge, an assessment, or other revenue of an agency available for that purpose.

(3) "Public utility agency" means an agency created under this subchapter by two or more public entities to acquire, plan, finance, construct, own, operate, or maintain facilities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.051 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 1, eff. June 17, 2011.

Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 3, eff. May 20, 2025.

Sec. 572.052. CREATION OF PUBLIC UTILITY AGENCY. (a) Public entities may create a public utility agency by concurrent ordinances.

(b) A public entity may join in the creation of a public utility agency under this subchapter only if, at the time the concurrent ordinance is adopted, the entity has the authority to engage in the collection, transportation, treatment, or disposal of sewage or the conservation, storage, transportation, treatment, or distribution of water. This subsection does not prohibit a public entity from disposing of a facility after creation of the agency.

(c) A public utility agency is a:

(1) separate agency;

(2) political subdivision of this state;

(3) political entity and corporate body; and

(4) retail public utility for the purposes of Chapter 13, Water Code.

(d) A public utility agency may not impose a tax but has all the other powers and obligations that are related to facilities and that are provided by law to a municipality that owns a facility, except as provided by Section 572.061.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.052 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 4, eff. May 20, 2025.

Sec. 572.053. CHANGES IN PUBLIC ENTITIES PARTICIPATING IN OR DISSOLUTION OF PUBLIC UTILITY AGENCY. (a) The public entities that participate in a public utility agency may by concurrent ordinances:

(1) add a public entity to, or delete a public entity from, participation in the public utility agency; or

(2) dissolve the public utility agency and transfer all obligations, assets, permits, and licenses of the public utility agency to the remaining public entities.

Text of subsection as added by Acts 2025, 89th Leg., R.S., Ch. 810 (S.B. 1243), Sec. 1

(b) A public entity that is the only remaining participant in a public utility agency may by ordinance dissolve the public utility agency in accordance with Subsection (a)(2).

Text of subsection as added by Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 5

(b) A participating public entity may withdraw from a public utility agency by providing an ordinance or resolution of the governing body of the participating public entity to the agency not later than the 180th day before the proposed date of withdrawal. A participating public entity may not withdraw from a public utility agency under this subsection if bonds, notes, or other obligations of the agency are secured by the revenues of the participating public entity, unless the agency adopts a resolution approving the

withdrawal. Upon withdrawal, a participating public entity assumes the outstanding debt attributable to that entity from the agency on a prorated basis equal to that entity's benefit and has, without compensation from the agency, no further rights, duties, or obligations relating to the agency or ability to receive service from the facilities of the agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.053 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 2, eff. June 17, 2011.
Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 5, eff. May 20, 2025.
Acts 2025, 89th Leg., R.S., Ch. 810 (S.B. 1243), Sec. 1, eff. September 1, 2025.

Sec. 572.054. NOTICE. (a) The governing body of each public entity that participates in the creation of a public utility agency shall publish notice of its intention to create the agency in a newspaper of general circulation in the county in which the entity is located.

(a-1) The governing body of a public entity that proposes to be added to an existing public utility agency shall publish notice of its intention to be added to the agency in a newspaper of general circulation in the county in which the entity is located.

(b) A notice under this section must be published once a week for two consecutive weeks. The first publication must appear at least 14 days before the date set for passage of the concurrent ordinance.

(c) The notice must state:

(1) the date, time, and location at which the governing body proposes to adopt the concurrent ordinance; and

(2) that a public utility agency will be created or a public entity will be added to an agency on the date on which the concurrent ordinances take effect, as applicable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.054 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 3, eff. June 17, 2011.

Sec. 572.055. CONTENTS OF CONCURRENT ORDINANCE. A concurrent ordinance creating a public utility agency under Section 572.052 or changing the public entities participating in an agency under Section 572.053 must, as adopted by each public entity:

(1) contain identical provisions;

(2) define the boundaries of the agency to include the territory within the boundaries of each participating public entity as the boundaries are changed periodically;

(3) designate the name of the agency; and

(4) designate the number, place, initial term, and manner of appointment of directors in accordance with Section 572.057.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.
Renumbered from Local Government Code, Section 422.055 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(20), eff. April 1, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 4, eff. June 17, 2011.

Sec. 572.056. PETITION AND REFERENDUM. (a) If, before the date set for the adoption of a concurrent ordinance that creates a public utility agency or adds a public entity to an agency, 10 percent of the registered voters of a public entity required to publish notice of the creation or addition present a petition to the governing body of the entity requesting that a referendum be called, the ordinance may not take effect unless a majority of the qualified voters of the entity voting in the election have approved the ordinance.

(b) The public entity must hold the election in conformity with:

(1) the Election Code;

(2) Chapter 1251, Government Code; and

(3) this subchapter.

(c) Except as provided by Subsection (a), a concurrent ordinance is not subject to a referendum.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.056 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 5, eff. June 17, 2011.

Sec. 572.057. BOARD OF DIRECTORS. (a) A public utility agency shall be governed by a board of directors. The board is responsible for the management, operation, and control of the property belonging to the agency.

(b) Each director must be appointed by place by the governing bodies of the participating public entities. Each participating public entity is entitled to appoint at least one director.

(c) An employee, officer, or member of the governing body of a public entity may serve as a director but may not have a personal interest in a contract executed by the public utility agency other than as an employee, officer, or member of the governing body of the public entity.

(d) A director of a public utility agency is entitled to $50 for each day spent in attending meetings of the board and a per diem of $50 if authorized by resolution of the board, plus actual expenses incurred in attending the meetings.

(e) Except as provided by Subsection (d), a director of a public utility agency serves without compensation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.057 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.058. POWERS. (a) A public utility agency may not engage in any utility business other than the collection, transportation, treatment, or disposal of sewage or the conservation, storage, transportation, treatment, or distribution of water for a participating public entity that owns jointly with the agency a facility in this state.

(b) A public utility agency may:

(1) perform any act necessary to the full exercise of the agency's powers, including acts necessary to acquire, finance, own, operate, or manage a facility of the agency;

(2) enter into a contract, lease, or agreement, including an interlocal contract as authorized by Chapter 791, Government Code, with or accept a grant or loan from any of the following entities for the management and operation of an agency facility or the acquisition, construction, financing, maintenance, operation, provision, or receipt of a facility, service, or product:

(A) a department or agency of the United States;

(B) a department, agency, or municipality or other political subdivision of this state; or

(C) a public or private corporation or person;

(3) sell, lease, convey, or otherwise dispose of all or a portion of any right, interest, or property the agency considers to be unnecessary for the efficient operation or maintenance of its facilities; and

(4) adopt rules to govern the operation of the agency and its employees, facilities, and service.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.058 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 6, eff. May 20, 2025.

Sec. 572.0581. NO POWER OF EMINENT DOMAIN. Except as provided by Section 572.0585, a public utility agency does not have the power of eminent domain.

Added by Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 7, eff.

May 20, 2025.

Sec. 572.0585. EMINENT DOMAIN IN CERTAIN COUNTIES. (a) A public utility agency has the power of eminent domain to be exercised in the manner provided by this section. The public utility agency may acquire by condemnation, for the use and benefit of the agency, land, easements, and property inside the service area of the public utility agency, necessary for water, sanitary sewer, storm drainage, or flood drainage or control purposes or for any other of its projects or purposes. The public utility agency may elect to condemn either the fee simple title or a lesser property interest.

(b) The power of eminent domain shall be exercised in the manner provided in Chapter 21, Property Code, except that the public utility agency is not required to:

(1) give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party; or

(2) deposit more than the amount of any award in any suit.

(c) The power of eminent domain may not be used for the condemnation of land for the purpose of acquiring rights to underground water or of water or water rights.

(d) This section only applies to a public utility agency domiciled in a county with a population of more than 1.2 million.

Added by Acts 2023, 88th Leg., R.S., Ch. 990 (H.B. 4217), Sec. 1, eff. June 18, 2023.

Sec. 572.0586. EXTENSION OF SERVICES. A public utility agency shall hold a public hearing and provide an opportunity for public comment before extending service to new customers located outside the service area identified in the 10-year capital improvements plan adopted in compliance with Chapter 395 that is in effect when an application for extension of service is received.

Added by Acts 2023, 88th Leg., R.S., Ch. 990 (H.B. 4217), Sec. 1, eff. June 18, 2023.

Sec. 572.059. CONSTRUCTION CONTRACTS. (a) A public utility agency may award a contract for construction of an improvement that

involves the expenditure of more than $20,000 only on the basis of competitive bids.

(b) The agency shall publish notice of intent to receive bids once a week for two consecutive weeks in a newspaper of general circulation in the county in which the agency is domiciled. The first publication must appear at least 14 days before the date bids are to be received.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.059 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.060. CONTRACTS FOR SEWER OR WATER SERVICES. A public utility agency may:

(1) contract with the public entities creating the agency for the collection, transportation, treatment, or disposal of sewage or the conservation, storage, transportation, treatment, or distribution of water; and

(2) under terms the agency's board of directors considers appropriate, contract with private entities for services described by Subdivision (1).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.060 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.061. RATES AND CHARGES. (a) In contracting with a public or private entity for wastewater collection, transmission, treatment, or disposal services or for water conservation, storage, transportation, treatment, or distribution, a public utility agency must charge rates sufficient to produce revenue adequate to:

(1) pay all expenses of operation and maintenance;

(2) pay when due the principal of and interest on obligations issued under this subchapter;

(3) pay the principal of and interest on any legal debt of the agency;

(4) pay when due all sinking and reserve fund payments;

and

(5) fulfill any agreements made with the holders of any obligations.

(b) A public utility agency may also establish a reasonable depreciation and emergency fund.

(c) Payments made under a contract with a public utility agency constitute an operating expense of the public or private entity served under the contract, unless otherwise prohibited by a previously outstanding obligation of the purchasing entity.

(d) Notwithstanding Subsection (a), the Public Utility Commission of Texas has appellate jurisdiction over the rates and charges of a public utility agency in the manner provided by Section 13.043, Water Code.

(e) This state pledges to and agrees with the purchasers and successive holders of obligations issued under this subchapter that in any appeal proceeding regarding the public utility agency conducted under Section 13.043, Water Code, the Public Utility Commission of Texas will establish rates and charges that will produce revenue sufficient to pay for those items specified in Subsections (a) and (b) and any other obligations of the agency in connection with those items.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.061 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 8, eff. May 20, 2025.

Sec. 572.062. OBLIGATIONS. (a) A public utility agency may:

(1) issue obligations, including anticipation notes, to accomplish the purposes of the agency; and

(2) finance or refund the acquisition, construction, expansion, and improvement of all or a portion of a facility relating to an agency purpose.

(b) Except as provided by Subsection (b-1), the public utility agency may pledge to the payment of the obligations:

(1) the revenue of all or part of its facilities, including

facilities acquired after the obligations are issued;

(2) revenues received from a public entity by contract as authorized by a concurrent ordinance;

(3) special assessments imposed by a public entity and provided by contract to the agency; or

(4) any other funds of the agency.

(b-1) Operation and maintenance expenses, including salaries and labor, materials, and repairs of facilities necessary to render efficient service, are a first lien on and charge against the pledged revenue.

(b-2) A public utility agency may not use a facility owned by the agency to secure or collateralize a new facility without the approval by resolution of each participating public entity participating in the joint financing of the new facility. This subsection does not apply to the use of revenue from a facility owned by the agency to secure or collateralize a new facility.

(c) The public utility agency may set aside from the proceeds of the sale of the obligations amounts for payment into the interest and sinking fund and reserve fund, and for interest and operating expenses during construction and development, as specified in the proceedings authorizing the obligations.

(d) Obligation proceeds may be invested, pending their use, in securities, interest-bearing certificates, or time deposits as specified in the proceedings authorizing the obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.062 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 9, eff. May 20, 2025.

Sec. 572.063. REFUNDING NOTES. A public utility agency may issue refunding notes for the purpose and in the manner provided by general law, including Chapter 1207, Government Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.063 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1,

2009.

Sec. 572.064. FORM AND PROVISIONS OF OBLIGATIONS. (a) An obligation issued under this subchapter must mature not later than 40 years after its date of issuance.

(b) The obligations must be signed by the presiding officer or assistant presiding officer of the public utility agency and be attested by the secretary.

(c) A public utility agency may sell obligations issued under this subchapter at public or private sale at a price or under the terms the agency determines to be in the best interest of the agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.064 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.065. LIABILITY. Liability for the facilities and management of the public utility agency must be transferred to the agency on ownership of the facilities by the agency.

Added by Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 10, eff. May 20, 2025.

Sec. 572.066. INFRASTRUCTURE INVESTMENTS. A public utility agency may create a funding mechanism to jointly invest in and leverage funding for water infrastructure in Texas with the North American Development Bank.

Added by Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 10, eff. May 20, 2025.

SUBCHAPTER D. RECEIVERSHIP AND TEMPORARY MANAGEMENT

Sec. 572.101. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Commission on Environmental Quality.

(2) "Utility" and "water supply or sewer service

corporation" have the meanings assigned by Section 13.002, Water Code.

(3) "Utility commission" means the Public Utility Commission of Texas.

Added by Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 11, eff. May 20, 2025.

Sec. 572.102. APPLICABILITY; JURISDICTION. (a) For purposes of this subchapter, a reference in Chapter 13, Water Code, to a person includes a public utility agency.

(b) For purposes of this subchapter, the utility commission has the same jurisdiction over a water supply or sewer service corporation that the utility commission has over a utility under Chapter 13, Water Code.

Added by Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 11, eff. May 20, 2025.

Sec. 572.103. RECEIVERSHIP. (a) At the request of the utility commission or the commission, the attorney general shall bring suit for the appointment of a receiver that is a public utility agency in the manner provided by Section 13.412, Water Code, to collect the assets and carry on the business of a utility or water supply or sewer service corporation that:

(1) has abandoned operation of its facilities;

(2) informs the utility commission or the commission that the owner is abandoning the system;

(3) violates a final order of the utility commission or the commission;

(4) allows any property owned or controlled by it to be used in violation of a final order of the utility commission or the commission;

(5) violates a final judgment issued by a district court in a suit brought by the attorney general under:

(A) Chapter 7 or 13, Water Code; or

(B) Chapter 341, Health and Safety Code; or

(6) violates a final judgment issued by a court in a proceeding to enforce a provision of a permit issued by a groundwater

conservation district under Chapter 36, Water Code.

(b) To facilitate the regionalization of water and sewer service, the utility commission shall prioritize an application submitted under Section 13.412(g), Water Code, by a public utility agency. The utility commission shall issue an order approving the acquisition proposed in the application not later than the 120th day after the date the utility commission determines the application is complete.

Added by Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 11, eff. May 20, 2025.

Sec. 572.104. TEMPORARY MANAGEMENT. The utility commission or the commission, after providing to the utility or water supply or sewer service corporation notice and an opportunity to be heard by the commissioners at a utility commission or commission meeting, may authorize a public utility agency to temporarily manage and operate a utility or water supply or sewer service corporation in the manner provided by Section 13.4132, Water Code, if the utility or corporation:

(1) has discontinued or abandoned operations or the provision of services;

(2) has been or is being referred to the attorney general for the appointment of a receiver under Section 572.103;

(3) violates a final order of the utility commission or the commission; or

(4) allows any property owned or controlled by it to be used in violation of a final order of the utility commission or the commission.

Added by Acts 2025, 89th Leg., R.S., Ch. 90 (S.B. 1169), Sec. 11, eff. May 20, 2025.

CHAPTER 573. AUTHORITY OF CERTAIN COUNTIES AND DISTRICTS TO REGULATE STORMWATER MANAGEMENT

Sec. 573.001. COUNTY OR DISTRICT SUBJECT TO CHAPTER. This chapter applies only to:

(1) a county with a population of 2.8 million or more;

(2) a district or authority created under Section 59,

Article XVI, Texas Constitution, that:

(A) has boundaries coterminous with a county described by Subdivision (1); and

(B) is authorized to provide stormwater drainage and flood control facilities;

(3) a county with a population of more than 1.3 million for which the primary source of drinking water is an underground aquifer; or

(4) a county with a population of 800,000 or more that contains a portion of the Edwards Aquifer.

Added by Acts 1999, 76th Leg., ch. 245, Sec. 1, eff. May 28, 1999. Renumbered from Sec. 422.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(92), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 195, Sec. 1, eff. June 2, 2003.
Renumbered from Local Government Code, Section 423.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(3), eff. April 1, 2009.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 524 (S.B. 1299), Sec. 1, eff. June 19, 2009.

Sec. 573.002. GENERAL AUTHORITY. (a) A county, district, or authority may take any necessary or proper action to comply with the requirements of the stormwater permitting program under the national pollutant discharge elimination system (Section 402, Federal Water Pollution Control Act (33 U.S.C. Section 1342)), including:

(1) developing and implementing controls to reduce the discharge of pollutants from any conveyance or system of conveyance owned or operated by the county, district, or authority that is designed for collecting or conveying stormwater;

(2) developing, implementing, and enforcing stormwater management guidelines, design criteria, or rules to reduce the discharge of pollutants into any conveyance or system of conveyance owned or operated by the county, district, or authority that is designed for collecting or conveying stormwater;

(3) assisting residents with the proper management of used oil and toxic materials, including the holding of household hazardous waste collection events;

(4) developing and providing educational tools and activities designed to reduce or lead to the reduction of the discharge of pollutants into stormwater; and

(5) assessing reasonable charges to fund the implementation, administration, and operation of the stormwater permitting program as necessary to comply with federal or state program requirements.

(b) Notwithstanding Subsection (a)(5), a county, district, or authority may not assess a charge against property that is:

(1) exempt from ad valorem taxation; or

(2) subject to an assessment for the same purpose by another entity.

Added by Acts 1999, 76th Leg., ch. 245, Sec. 1, eff. May 28, 1999.
Renumbered from Sec. 422.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(92), eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 160 (S.B. 1932), Sec. 1, eff. September 1, 2007.
Renumbered from Local Government Code, Section 423.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(3), eff. April 1, 2009.

Sec. 573.003. CIVIL PENALTY; INJUNCTION. (a) A person who violates a rule or order adopted by the county, district, or authority under this chapter is liable to the county, district, or authority for a civil penalty of not more than $1,000 for each violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty.

(b) A county, district, or authority may bring suit in a district court to:

(1) restrain a violation or threatened violation of a rule or order adopted by the county, district, or authority under this chapter; or

(2) recover a civil penalty authorized by Subsection (a).

Added by Acts 1999, 76th Leg., ch. 245, Sec. 1, eff. May 28, 1999.
Renumbered from Sec. 422.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(92), eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 423.003 by Acts 2007,

80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(3), eff. April 1, 2009.

CHAPTER 580. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL AND COUNTY WATER

Sec. 580.001. WATER CONTRACTS IN BORDER MUNICIPALITIES AND COUNTIES. The governing body of a municipality or county that has a boundary that is contiguous with the border between this state and the Republic of Mexico may contract for the acquisition of water or water rights with a border municipality or state in the Republic of Mexico if the contract is approved and monitored by the Texas Commission on Environmental Quality and the International Boundary and Water Commission, United States and Mexico.

Added by Acts 1991, 72nd Leg., ch. 769, Sec. 2, eff. Aug. 26, 1991.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.261, eff. Sept. 1, 1995.
Renumbered from Local Government Code, Section 430.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(4), eff. April 1, 2009.
Amended by:

Acts 2025, 89th Leg., R.S., Ch. 986 (S.B. 766), Sec. 37, eff. September 1, 2025.

Sec. 580.002. CONSIDERATION OF XERISCAPE ORDINANCES. The governing body of each municipality and county may consider enacting orders or ordinances, as appropriate, requiring the use of xeriscape to conserve water. If the governing body determines that the water conservation benefits of the required use of xeriscape would be significant relative to the cost of implementing that use, the governing body may adopt a xeriscape order or ordinance, as appropriate.

Added by Acts 1993, 73rd Leg., ch. 642, Sec. 3, eff. Sept. 1, 1993.
Renumbered from Local Government Code, Section 430.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(4), eff. April 1, 2009.

Text of section as amended by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.33

Sec. 580.003. EXEMPTIONS OF CERTAIN PROPERTY FROM INFRASTRUCTURE FEES. No county, municipality, or utility district may collect from a state agency or a public or private institution of higher education any fee charged for the development or maintenance of programs or facilities for the control of excess water or storm water.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 83, eff. June 20, 2003. Renumbered from Local Government Code, Section 430.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(4), eff. April 1, 2009.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.33, eff. September 1, 2007.

Text of section as amended by Acts 2007, 80th Leg., R.S., Ch. 1356 (H.B. 462), Sec. 1

Sec. 580.003. EXEMPTIONS OF STATE PROPERTY FROM INFRASTRUCTURE FEES. (a) Except as provided by Subsection (b), no county, municipality, or utility district may collect from a state agency or public institution of higher education any fee charged for the development or maintenance of programs of facilities for the control of excess water or storm water.

(b) A municipality with a population of 25,000 or less and through which the Bosque River runs may collect from a state agency or public institution of higher education a fee charged for the development or maintenance of programs of facilities for the control of excess water or storm water.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 83, eff. June 20, 2003. Renumbered from Local Government Code, Section 430.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(4), eff. April 1, 2009.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1356 (H.B. 462), Sec. 1, eff. June 15, 2007.

Sec. 580.004. RAINWATER HARVESTING. (a) Each municipality and county is encouraged to promote rainwater harvesting at residential, commercial, and industrial facilities through incentives such as the provision at a discount of rain barrels or rebates for water storage facilities.

(b) The Texas Water Development Board shall ensure that training on rainwater harvesting is available for the members of the permitting staffs of municipalities and counties at least quarterly. Each member of the permitting staff of each county and municipality located wholly or partly in an area designated by the Texas Commission on Environmental Quality as a priority groundwater management area under Section 35.008, Water Code, whose work relates directly to permits involving rainwater harvesting and each member of the permitting staff of each county and municipality with a population of more than 10,000 whose work relates directly to permits involving rainwater harvesting must receive appropriate training regarding rainwater harvesting standards and their relation to permitting at least once every five years. Members of the permitting staffs of counties and municipalities not located wholly or partly in an area designated by the Texas Commission on Environmental Quality as a priority groundwater management area under Section 35.008, Water Code, whose work relates directly to permits involving rainwater harvesting and members of the permitting staffs of counties and municipalities with a population of 10,000 or less whose work relates directly to permits involving rainwater harvesting are encouraged to receive the training. The Texas Water Development Board may provide appropriate training by seminars or by videotape or functionally similar and widely available media without cost.

(c) A municipality or county may not deny a building permit solely because the facility will implement rainwater harvesting. However, a municipality or county may require that a rainwater harvesting system comply with the minimum state standards established for such a system.

(d) Each school district is encouraged to implement rainwater harvesting at facilities of the district.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1311 (H.B. 3391), Sec. 4, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 695 (H.B. 2781), Sec. 5, eff.

September 1, 2013.

SUBTITLE D. POWERS OF COUNTIES OR MUNICIPALITIES OVER UTILITIES GENERALLY

CHAPTER 590. POWERS OF MUNICIPALITIES OVER UTILITIES

Sec. 590.0001. POWERS OF HOME-RULE MUNICIPALITIES RELATING TO UTILITIES. Except as otherwise provided by state law enacted after the Revised Statutes of 1925 (S.B. 84, Acts of the 39th Legislature, Regular Session, 1925) or by federal law:

(1) a home-rule municipality may:

(A) prohibit the use of any street, alley, highway, or grounds of the municipality by any telegraph, telephone, electric light, street railway, interurban railway, steam railway, gas company, or any other character of public utility without first obtaining the consent of the governing authorities expressed by ordinance and on paying such compensation as may be prescribed and on such condition as may be provided by any such ordinance; and

(B) determine, fix, and regulate the charges, fares, or rates of any person, firm, or corporation enjoying or that may enjoy the franchise or exercising any other public privilege in said municipality and prescribe the kind of service to be furnished by such person, firm, or corporation, and the manner in which it shall be rendered, and from time to time alter or change such rules, regulations, and compensation; provided that in adopting such regulations and in fixing or changing such compensation, or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying the franchise shall be considered unless proof that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done, or property actually received in accordance with the laws and constitution of this state applicable thereto;

(2) in order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the governing authority shall have full power to inspect the books and compel the attendance of witnesses for such purpose;

(3) provided that in any municipality with a population of more than 25,000, the governing body of such municipality, when the public service of such municipality may require the same, shall have

the right and power to compel any street railway or other public utility corporation to extend its lines of service into any section of said municipality not to exceed two miles, all told, in any one year; and

(4) whenever any municipality may determine to acquire any public utility using and occupying its streets, alleys, and avenues as hereinbefore provided, and it shall be necessary to condemn the said public utility, the municipality may obtain funds for the purpose of acquiring the said public utility and paying the compensation therefor, by issuing bonds, notes, or other evidence of indebtedness and shall secure the same by fixing a lien on the said properties constituting the said public utility so acquired by condemnation or purchase or otherwise; said security shall apply alone to said properties so pledged; and such further regulations may be provided by any charter for the proper financing or raising the revenue necessary for obtaining any public utilities and providing for the fixing of said security.

Added by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 18.002(a), eff. September 1, 2019.

TITLE 14. PARKING AND TRANSPORTATION

SUBTITLE A. MUNICIPAL PARKING PROVISIONS

CHAPTER 601. MUNICIPAL AUTHORITY RELATING TO PARKING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 601.001. PARKING ON PRIVATE PROPERTY. A municipality by ordinance may regulate the parking of motor vehicles on private property and may enforce the ordinance in the same manner that it enforces ordinances regulating parking in public no-parking zones, including the impoundment of offending vehicles.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(1), eff. April 1, 2009.

SUBCHAPTER B. MUNICIPAL PARKING AUTHORITIES

Sec. 601.021. DEFINITIONS. In this chapter:

(1) "Authority" means a parking authority created under

this subchapter.

(2) "Board" means the governing body of an authority.

(3) "Bond" means a note, bond, or other evidence of indebtedness or obligation issued by an authority.

(4) "Construction" includes acquisition.

(5) "Deed of trust" means a deed of trust, indenture, or other similar agreement.

(6) "Federal agency" means the United States, the president of the United States, or a department, corporate agency, or instrumentality of the United States.

(7) "Improvement" includes extension and enlargement.

(8) "Parking facility" means a public lot, garage, parking terminal, or other structure or accommodation for the parking of motor vehicles off the street or highway, and includes equipment, entrances, exits, fencing, and other accessories necessary for safety and convenience in the parking of vehicles.

(9) "Project" means a structure, facility, or undertaking of an authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.021 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.022. CREATION OF AUTHORITY. (a) The governing body of a municipality by ordinance may create an authority, which shall be called "City of (name of municipality) Parking Authority."

(b) A notice, including the text of the ordinance creating the authority, a synopsis of the articles of incorporation of the authority, and a reference to this subchapter, must be published once weekly for four consecutive weeks in a newspaper of general circulation in the municipality. The municipality shall file the ordinance with the secretary of state within 10 days after the date of the passage of the ordinance.

(c) The ordinance takes effect 60 days after the date of its last publication unless a protest petition has been filed with the clerk of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.022 by Acts 2007,

80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.023. PROTEST PETITION. (a) A protest petition must object to the adoption of the ordinance creating an authority and request that the ordinance be submitted to the voters of the municipality. It must be signed by a number of registered voters of the municipality equal to at least 10 percent of the number of votes cast at the most recent general municipal election.

(b) If a petition is filed, the municipality must determine whether the petition is valid within 10 days after the date of filing.

(c) The governing body of the municipality shall call an election to submit the ordinance to a vote on the next uniform election date authorized by Chapter 41, Election Code, that occurs more than 30 days after the date the municipality verifies the petition is valid.

(d) If a majority of the votes cast at the election are in favor of the ordinance, it takes effect on the certification of the results. If a majority of the votes cast are against the ordinance, it does not take effect.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.023 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.024. COMPOSITION OF BOARD. (a) The powers of an authority are exercised by a board composed of five members who must be residents of the municipality.

(b) The presiding officer of the governing body of the municipality shall appoint the members of the board for two-year staggered terms.

(c) The terms of two members shall expire on July 1 of each even-numbered year and the terms of three members shall expire on July 1 of each odd-numbered year.

(d) The board members shall select from among themselves a chairman, a vice-chairman, and other officers as they determine.

(e) A vacancy that occurs more than 60 days before the expiration date of a term shall be promptly filled for the unexpired term by appointment by the presiding officer of the governing body of the municipality.

(f) A board member may be removed for cause following a hearing. Removal is by order of the presiding officer of the governing body of the municipality, with the concurrence of two-thirds of the members of the governing body of the municipality.

(g) An appointment must be confirmed by the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.024 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.025. COMPENSATION AND LIABILITY. (a) A board member may not receive compensation for services as a member but is entitled to payment for the necessary expenses incurred in the discharge of duties as a member.

(b) A board member is not liable personally on the bonds of an authority, and the rights of creditors are solely against the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.025 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.026. POWERS OF BOARD. (a) The board manages the property and business of the authority.

(b) The board may adopt bylaws and rules governing the manner in which the business of the authority is conducted.

(c) The board may employ a secretary, an executive director, legal staff, technical experts, and other agents and employees that it requires. It may determine the qualifications and fix the compensation of those persons.

(d) The board may delegate to an agent or employee powers as it considers necessary to carry out the purposes of this subchapter, and

the agent or employee is subject to the supervision and control of the board.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.026 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.027. POWERS OF AN AUTHORITY. (a) An authority may:

(1) construct, improve, maintain, repair, or operate a project;

(2) conduct research necessary for efficient operation of a parking facility;

(3) establish a permanent coordinated system of parking facilities;

(4) plan, design, locate, hold, construct, improve, maintain, operate, own, or lease land and facilities for the parking of vehicles;

(5) sue and be sued, implead and be impleaded, and complain and defend in court;

(6) adopt, use, and alter a corporate seal;

(7) acquire, purchase, hold, lease as lessee, or use a franchise, property, or an interest in property, as necessary or desirable for carrying out the purpose of this subchapter;

(8) sell, lease as lessor, exchange, transfer, or dispose of property or an interest in property;

(9) contract and execute instruments necessary or convenient to carry on its business;

(10) borrow money, accept a grant, and enter into a contract, lease, or other transaction with a federal agency, the state, a municipality, a corporation, or another authority;

(11) exercise the power of eminent domain;

(12) pledge, hypothecate, or otherwise encumber the revenue or receipts of the authority as security for the obligations of the authority;

(13) enter into a contract of group insurance for the benefit of its employees and set up a retirement or pension fund for the employees;

(14) on consent of the municipality, use an appointed

officer, agent, employee, and facility of the municipality and pay the municipality for the use;

(15) dedicate its real property to the public purposes for a street or highway;

(16) invest that part of the proceeds received from the sale of bonds or other funds that the authority considers available in direct obligations of the United States; and

(17) act as necessary to accomplish its purpose, the promotion of its business, and its general welfare.

(b) An authority may not pledge the credit or taxing power of the state or a political subdivision of the state. The obligations of an authority are not the obligations of the state or a political subdivision of the state. The state or a political subdivision of the state is not liable for the payment of the principal of or interest on the obligations.

(c) An authority may not sell goods or provide services other than those necessary for the parking of vehicles in a facility of the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.027 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.028. CHARGES FOR USE OF FACILITY. (a) An authority may collect charges for the use of its facility at reasonable rates determined by the authority for the purpose of paying the expenses and obligations of the authority.

(b) A person questioning the reasonableness of a rate or charge of the authority may bring suit against the authority in a district court in the county in which the project is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.028 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.029. FINANCING; BONDS. (a) In addition to bonds provided for by this subchapter, an authority, subject to the

specific authorization and approval of the municipality creating it, may finance the creation and establishment of parking facilities by one or more of the following methods:

(1) parking fees or special charges derived from the use of parking facilities;

(2) general fund appropriation;

(3) parking meter revenue; and

(4) a gift, bequest, devise, or grant-in-aid.

(b) A municipality establishing an authority under this subchapter, on a two-thirds vote of its governing body, may pay to the authority money necessary to:

(1) acquire all or part of the land on which the authority intends to erect a parking facility;

(2) construct all or part of a parking facility;

(3) pay operating expenses of the authority and debt service on outstanding bonds of the authority; or

(4) make payments into a reserve fund for the payment of the principal of and interest on indebtedness of the authority, as may be provided by a resolution of the authority authorizing the issuance of revenue bonds or a trust indenture securing revenue bonds.

(c) A municipality, to provide funds for use under Subsection (b) of this section, may issue general obligation bonds, secured by the faith and credit of the municipality, payable from unlimited ad valorem taxes on all of the real estate in the municipality subject to taxation, and may levy those taxes in an unlimited rate or amount.

(d) A municipality may guarantee revenue bonds of the authority issued under this subchapter by pledging its full faith and credit to the payment of the principal of and interest on the revenue bonds. The aggregate amount of general obligation bonds issued by a municipality under this subsection, the indebtedness guaranteed, and the taxes levied are in addition to, and not subject to the limitations of, the statutory debt or tax limitation of the municipality. The municipality may fund the guarantee by levying an ad valorem tax on real estate subject to taxation, not to exceed a rate of one-hundredth of one percent, or may use other money of the municipality available for this purpose.

(e) An agreement by a municipality to guarantee the revenue bonds of the authority, to maintain a reserve fund, or to pay debt service or operating expenses of the authority may be included in a

contract with holders of revenue bonds of the authority and may be pledged by the authority to the payment of the revenue bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.029 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.030. REVENUE BONDS. (a) An authority by resolution may issue revenue bonds to finance a parking facility, the acquisition, construction, reconstruction, and repair of property related to the facility, and the necessary expenses of financing the facility and its operations.

(b) The total principal amount of the revenue bonds outstanding at one time may not exceed $20 million.

(c) As provided by the board before the issuance of revenue bonds, the bonds:

(1) must be dated, must bear interest at a rate, and must mature at a time not to exceed 25 years from the date of their issuance and not to extend beyond the existence of the authority; and

(2) may be made redeemable before maturity at a particular price and under particular terms.

(d) The board shall determine the form of the revenue bonds, including interest coupons, if any, and the manner of execution of the bonds. The board shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at a bank or trust company in the state.

(e) The revenue bonds are negotiable instruments under state law and may be sold in the manner and for the price determined to be in the best interests of the municipality.

(f) The revenue bonds are not a pledge of the faith and credit of a municipality or the state but are payable only from revenues under this subchapter. The face of the bonds must state this.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.030 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.031. RESOLUTION AUTHORIZING ISSUANCE OF REVENUE BONDS. (a) A resolution authorizing issuance of revenue bonds must pledge the revenues to be received from the parking facility for which the bonds are issued. The resolution may pledge parking meter revenues for this purpose and may provide for mortgaging the parking facility as additional security. The resolution may contain other provisions for protecting and enforcing the rights and remedies of a bondholder as permitted by this subchapter and may contain a limitation on the issuance of additional revenue bonds as the board considers proper.

(b) An expense incurred in carrying out the provisions of the resolution may be treated as a part of the cost of operation of the facility.

(c) The resolution may contain provisions, which if in the resolution must be included as part of the contract with a bondholder, relating to:

(1) the construction, improvement, operation, maintenance, and repair of a project and to the authority's duties regarding those actions;

(2) limitations on the purpose for which the proceeds of the revenue bonds or of a loan or grant from a federal agency may be used;

(3) the rate of a toll and other charge for use of a facility of the authority or a service provided by the authority;

(4) the setting aside, regulation, and disposition of a reserve or sinking fund; and

(5) any other agreement with the bondholder.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.031 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.032. DEED OF TRUST. An authority may enter into a deed of trust as security for revenue bonds and may assign and pledge all or part of the revenues or receipts of the authority under the agreement. The deed of trust may contain provisions relating to:

(1) the construction, improvement, operation, maintenance, and repair of a project and to the authority's duties regarding those actions;

(2) the application and safeguarding of funds under the control of the authority;

(3) the rights and remedies of the trustee and bondholders, including a restriction on a right of action of bondholders; and

(4) terms of the revenue bonds or the resolution authorizing their issuance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.032 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.033. PLEDGED CONTRACT. (a) A contract between the municipality and an authority may be pledged by the authority to secure its bonds. A pledged contract may not be modified except as provided by the terms of the pledge. The governing body of the municipality may authorize the contract without further authorization.

(b) A payment required by the municipality under the contract may be made even if the payment is not provided for in the budget of the municipality, but the payment shall be included in subsequent budgets of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.033 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.034. RIGHTS AND REMEDIES OF BONDHOLDER. (a) The rights and remedies of a bondholder under this section are in addition to any rights and remedies lawfully granted to the bondholder by a resolution providing for the issuance of bonds or by a deed of trust under which bonds are issued.

(b) If an authority fails to pay the principal of or interest on a bond on or before the 60th day after the date payment is due, violates this chapter, or breaches another agreement with a bondholder, the holders of 25 percent of the aggregate principal amount of the bonds outstanding may appoint a trustee to represent the bondholders. To appoint a trustee, the bondholders must file in

the office of the recorder of deeds of the county in which the authority is located an instrument that is proved or acknowledged in the same manner as required by law for a deed to be recorded.

(c) The trustee appointed under this section or a trustee under a deed of trust under this subchapter may, and on written request of the holders of 25 percent of the aggregate principal amount of the bonds outstanding, unless provided otherwise by the deed of trust, shall, in the trustee's own name:

(1) bring an action to enforce the rights of the bondholders;

(2) bring suit on the bonds;

(3) require the authority to account as if it were the trustee of an express trust for the bondholders; or

(4) sue to enjoin violations of law or the rights of the bondholders.

(d) By notice in writing to the authority the trustee may declare bonds due and payable. If the authority cures all defaults, the trustee, with the consent of the holders of 25 percent of the aggregate principal amount of the bonds then outstanding, unless provided otherwise by the deed of trust, may rescind the declaration.

(e) A district court in the county in which the authority is located has jurisdiction of an action by the trustee. A trustee appointed or acting under a deed of trust is entitled to the appointment of a receiver, who may enter and take possession of all or part of the facilities of the authority and the revenues or receipts that may be applicable to the payment of the bonds in default, and who may operate and maintain the facilities and collect and receive rent and other revenues of the facilities. The receiver shall deposit the money in a separate account and apply it in the manner the court directs. In an action by the trustee, any fees, attorney's fees, and expenses of the trustee and the receiver and the costs and disbursements allowed by the court are a first charge on the revenues and receipts from the facilities of the authority that are applicable to the payment of the bonds in default. The trustee may exercise the powers necessary or appropriate for carrying out the trustee's functions under this section or incident to the general representation of the bondholders in the enforcement and protection of their rights.

(f) This subchapter does not authorize a bondholder or a receiver or trustee appointed under this subchapter to sell, assign,

mortgage, or otherwise dispose of the assets of the authority. A receiver may only operate and maintain the facilities of the authority as the court directs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.034 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.035. BONDS EXEMPT FROM TAXATION. Revenue bonds issued under this subchapter, transfer of the bonds, income from the bonds, and a profit made on the sale of the bonds are free from taxation by the state or a subdivision of the state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.035 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.036. ELIGIBILITY FOR INVESTMENT. (a) A bond is a security in which a public officer or body of the state or a municipality or municipal subdivision, insurance company, bank, trust company, savings and loan association, or investment company may invest.

(b) A bond is not eligible for the investment of funds of a trust, estate, or guardianship under the control of an individual fiduciary.

(c) A bond may be deposited with a public officer or body of the state or a municipality or municipal subdivision for any purpose for which a bond of the state may be deposited.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.036 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.037. MONEY. Money of an authority shall be paid to the treasurer of the authority who shall deposit it in a separate

account in a bank or trust company. The money may be paid out on the warrant or other order of the chairman of the authority or of another person designated by the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.037 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.038. EXAMINATION OF ACCOUNTS. (a) At least once a year, the authority shall have a certified public accountant conduct an audit of its books, accounts, and other records. A copy of the audit shall be delivered to the municipality creating the authority.

(b) If the authority fails to make the required audit, an auditor or accountant designated by the municipality may examine, at the expense of the authority, the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and other matters relating to its finances, operation, and affairs.

(c) The attorney general may examine the books, accounts, and other records of an authority.

(d) A concise financial statement shall be published annually in a newspaper of general circulation in the municipality in which the principal office of the authority is located. If the publication is not made by the authority, the municipality shall publish the statement at the expense of the authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.038 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.039. CONVEYANCE OF PROPERTY. (a) The municipality, by resolution or an instrument authorized by a resolution, may convey property to an authority for use in a project.

(b) The legal title to real property conveyed remains with the municipality, but the authority may, until it ceases to exist, use the property.

(c) Legal title to personal property conveyed passes to the

authority.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.039 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.040. ACQUISITION OF REAL PROPERTY. (a) The municipality may acquire real property for a project or for building or improving a road leading to a project.

(b) The municipality may close a road as is necessary or convenient for the purposes of this subchapter.

(c) An authority may, at its own expense, acquire real property for a project in the name of the municipality by purchase or condemnation under the laws relating to the condemnation of land by the municipality. The authority may, until it ceases to exist, use the property.

(d) If an authority determines that real property is no longer required for a project, and the property was acquired at the expense of the municipality, the authority may give the use of the property to the municipality. If the property was acquired at the expense of the authority, the authority may sell, lease, or otherwise dispose of the property and may use the proceeds for the purposes of this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.040 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.041. TAX-EXEMPT STATUS. Unless otherwise specifically provided by statute or in the ordinance or resolution creating an authority, property of an authority is exempt from taxation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.041 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.042. CONTRACTS. An authority shall let a contract in the manner, to the extent practicable, provided by law for contracts of the municipality, except that if the estimated expense of a contract does not exceed $5,000, the contract may be entered into without public bidding.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.042 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.043. NOTICE OF CLAIM. (a) In an action against an authority for damages, injury to property, or personal injury or death, a person making a claim shall notify the authority of the claim, reasonably describing the damage or injury and stating the time, manner, and place of the incident from which the claim arose. The notice must be given within six months after the date of the incident.

(b) Notice need not be given if an authority has actual notice of the damage or injury.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.043 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1, 2009.

Sec. 601.044. DURATION. (a) An authority ceases to exist 25 years after the date it is created, except that the municipality that created the authority may extend its existence for not more than 10 years by filing a certified ordinance with the secretary of state.

(b) An authority continues to exist until its liabilities and bonds issued by its board or by the municipality on its behalf have been paid.

(c) When an authority ceases to exist, its rights and property pass to the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 431.044 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(d)(2), eff. April 1,

2009.

SUBTITLE B. COUNTY PARKING AND TRANSPORTATION PROVISIONS
CHAPTER 615. MISCELLANEOUS PARKING AND TRANSPORTATION PROVISIONS AFFECTING COUNTIES
SUBCHAPTER A. PARKING

Sec. 615.001. PARKING ON COUNTY PROPERTY. (a) The commissioners court of a county by order may regulate the parking of vehicles on property owned or leased by the county.

(b) The commissioners court may adopt rules under this section to:

(1) limit the use of parking spaces to certain vehicles or types of vehicles;

(2) limit the time that a vehicle may be parked in a specific space or area; or

(3) prohibit the parking of vehicles in certain areas.

(c) If a county restricts or prohibits parking in a place, it shall erect an appropriately worded sign at the place to inform a driver of a vehicle of the restriction or prohibition. The county is not required to erect a sign to indicate that parking is prohibited on a lawn or other area that does not appear to be a place intended for use as a parking area.

(d) A county may provide for towing and storing a vehicle at the owner's expense if it is parked in violation of a rule adopted under this section. The county may not provide for towing a vehicle that is parked under circumstances that create a defense to prosecution under Subsection (e).

(e) A person commits an offense if the person parks a vehicle in violation of a rule adopted under this section. An offense under this section is a Class C misdemeanor. It is a defense to prosecution under this section that the place where the person parked is an area in which a sign is required under Subsection (c) and that there was no sign in place at the time the person parked.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 445.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(1), eff. April 1, 2009.

Sec. 615.002. REGULATION OF COURTHOUSE PARKING LOTS IN CERTAIN COUNTIES. (a) This section applies to a county with a population of:

(1) 14,800 to 15,000;
(2) 19,900 to 20,000;
(3) 21,300 to 21,500;
(4) 57,800 to 57,900;
(5) 36,000 to 36,500; or
(6) 234,000 or more.

(b) The commissioners court of the county may purchase necessary equipment and may make and enforce rules for parking in a county-owned or county-leased parking lot in, under, adjacent to, or near the county courthouse.

(c) The commissioners court and the governing body of the municipality in which the courthouse is located may contract for enforcement of the rules.

(d) The sheriff's department of the county may enforce the rules.

(e) A person commits an offense if the person violates a parking rule adopted under this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than $1 nor more than $20.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 105, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 111, eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 445.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(1), eff. April 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 103, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 201, eff. September 1, 2023.

Sec. 615.003. PARKING LOTS AND PARKING GARAGES IN CERTAIN COUNTIES. (a) A county may construct, enlarge, equip, and operate a parking lot or parking garage adjacent to or near the county courthouse.

(b) The county may lease the parking lot or parking garage to a person on terms considered appropriate by the commissioners court of the county.

(c) To exercise a power granted by this section, the commissioners court of the county may appropriate and spend money from the general fund or the permanent improvement fund of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 445.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(1), eff. April 1, 2009.
Amended by:

Acts 2025, 89th Leg., 2nd C.S., Ch. 7 (H.B. 16), Sec. 15.11, eff. December 4, 2025.

Sec. 615.004. FREE PARKING IN COUNTY PARKING FACILITIES. (a) The commissioners court of a county by order may permit former prisoners of war or persons awarded the Purple Heart or a Congressional Medal of Honor to park free of charge in any county parking facility.

(b) The commissioners court of the county may adopt procedures to administer this section, including procedures to verify the status of a person described by Subsection (a).

Added by Acts 1999, 76th Leg., ch. 1049, Sec. 1, eff. Aug. 30, 1999.
Renumbered from Local Government Code, Section 445.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(1), eff. April 1, 2009.

SUBCHAPTER B. AIRPORTS

Sec. 615.011. USE OF EQUIPMENT ON AIRSTRIPS BY CERTAIN COUNTIES. (a) In this section, "airstrip" means:

(1) an area of land or water used or intended for use for the landing and takeoff of aircraft; and

(2) an appurtenant area used or intended for use for an airport building, other airport facility, or right-of-way.

(b) A county with a population of 44,500 to 45,500 may authorize the use of county equipment, machinery, and employees to

construct, establish, and maintain a public airstrip in the county.

(c) The county shall pay the cost of the use of the county equipment, machinery, and employees from appropriate county funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 106, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 112, eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 445.011 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(2), eff. April 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 104, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 202, eff. September 1, 2023.

SUBCHAPTER C. TRANSPORTATION

Sec. 615.021. GRANTS FOR TRANSPORTATION SERVICES. (a) A county may provide grants to an eligible nonprofit corporation that provides transportation services to residents of the county.

(b) An eligible nonprofit corporation is one that was organized before September 1, 1985, to coordinate the public transportation services of state agencies in a regional rural area and to provide public transportation in a county or multicounty rural area.

Added by Acts 1991, 72nd Leg., ch. 679, Sec. 1, eff. June 16, 1991.
Renumbered from Local Government Code, Section 445.021 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(3), eff. April 1, 2009.

Sec. 615.022. TRANSPORTATION EXPENSES OF CERTAIN COUNTIES FOR SENIOR CITIZENS. The commissioners court of a county with a population of 2.2 million or more may pay out of the county general funds costs and expenses for the transportation of senior citizens and their caregivers for civic, community, educational, and recreational activities within and outside the county if a majority of the costs and expenses paid are for the transportation of senior citizens.

Renumbered from Sec. 332.004(c) by Acts 1993, 73rd Leg., ch. 107, Sec. 8.02, eff. Aug. 30, 1993.
Renumbered from Local Government Code, Section 445.022 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(3), eff. April 1, 2009.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.017, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 105, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 865 (H.B. 1929), Sec. 1, eff. September 1, 2015.

Sec. 615.023. CONTRACTS WITH TRANSIT AUTHORITIES. (a) The commissioners court of a county may contract with a rapid transit authority operating under Chapter 451, Transportation Code, or a metropolitan transportation authority operating under Chapter 452 of that code for the authority to provide public transportation services to an unincorporated area of the county outside the boundaries of the authority.

(b) The county may impose taxes and pledge and encumber other receipts and revenue as may be required to make payments to the authority under the contract.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 13, eff. Sept. 1, 1995.
Renumbered from Local Government Code, Section 445.023 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(3), eff. April 1, 2009.

Sec. 615.024. REGULATION OF TRANSIT AUTHORITY PASSENGERS. (a) The commissioners court of a county in which there is located a rapid transit authority operating under Chapter 451, Transportation Code, the principal municipality of which has a population of more than 1.9 million, may adopt an ordinance of the principal municipality relating to the conduct of persons:

(1) on board a transit vehicle;

(2) awaiting transportation on a transit vehicle at a bus stop or other place designated as a place of entry to or exit from a

transit vehicle;

(3) in a facility, including a building, storage unit, or parking lot of the rapid transit authority; or

(4) in a transit route or other dedicated traffic lane over which a transit vehicle travels and that is specifically labeled or numbered for the purpose of picking up or discharging passengers at regularly scheduled stops or intervals.

(b) An order adopted under this section applies in all parts of the county.

(c) An offense defined by an order under this section is a Class C misdemeanor.

(d) In this section:

(1) "Principal municipality" has the meaning assigned by Section 451.001, Transportation Code.

(2) "Transit vehicle" means a vehicle operated by a rapid transit authority operating under Chapter 451, Transportation Code.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 14, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 669, Sec. 113, eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 445.024 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(3), eff. April 1, 2009.

SUBCHAPTER D. SPECIAL COUNTY ROAD ASSISTANCE PROGRAM

Sec. 615.101. SPECIAL COUNTY ROAD ASSISTANCE PROGRAM. On or before October 15 of each year, the comptroller shall distribute to counties money appropriated for the special county road assistance program under this subchapter.

Added by Acts 2001, 77th Leg., ch. 943, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 445.101 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(4), eff. April 1, 2009.

Sec. 615.102. USE OF MONEY. Money appropriated to the program under this subchapter may be used only for the support of the county road system, including uses specified by Section 256.003, Transportation Code.

Added by Acts 2001, 77th Leg., ch. 943, Sec. 1, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 445.102 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(4), eff. April 1, 2009.

Sec. 615.103. ALLOCATION FORMULA. The comptroller shall distribute money appropriated to the program under this subchapter among the counties as follows:

(1) two-fifths according to total population, determined by the ratio of the total population of the county to the total population of the state;

(2) one-fifth according to population, determined by the ratio of the population in unincorporated areas of the county to the population in all unincorporated areas of the state;

(3) one-fifth according to lineal county road miles, determined by the ratio of lineal mileage of county roads in the county to the lineal mileage of county roads in the state, according to the most recent county road inventory compiled by the Texas Department of Transportation; and

(4) one-fifth according to paved and concrete county road miles, determined by the ratio of miles of lanes of paved and concrete county roads in the county to the miles of lanes of paved and concrete county roads in the state, according to the most recent county road inventory compiled by the Texas Department of Transportation.

Added by Acts 2001, 77th Leg., ch. 943, Sec. 1, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 445.103 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(e)(4), eff. April 1, 2009.