LOCAL GOVERNMENT CODE

TITLE 11. PUBLIC SAFETY

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.