

LOCAL GOVERNMENT CODE

TITLE 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

SUBTITLE B. COUNTY PARKS AND OTHER RECREATIONAL AND CULTURAL
RESOURCES

CHAPTER 322. JOINT PARKS BOARD AND PARK BONDS: ADJACENT COUNTIES
WITH POPULATIONS OF 350,000 OR MORE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 322.001. ELIGIBLE COUNTIES. Two adjacent counties that each have a population of one 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.

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.