

LOCAL GOVERNMENT CODE

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.