

TRANSPORTATION CODE

TITLE 6. ROADWAYS

SUBTITLE D. ROAD LAWS RELATING TO PARTICULAR COUNTIES

CHAPTER 283. CAUSEWAYS, BRIDGES, AND TUNNELS IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 283.001. DEFINITIONS. In this chapter:

- (1) "Bondholder" includes a trustee for a bondholder.
- (2) "Bond instrument" means a bond resolution or trust indenture.
- (3) "Interim bond" means a temporary bond, with or without coupons, that may be converted to a definitive bond.
- (4) "Project" means a causeway, bridge, or tunnel, including a necessary approach, fixture, accessory, or equipment that:
 - (A) is located in one county; and
 - (B) traverses or lies under the water of the Gulf of Mexico, including a bay or inlet opening.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.002. APPLICABILITY. This chapter applies only to a county that:

- (1) borders on the Gulf of Mexico; and
- (2) has a population of at least 20,000 as determined before the issuance of bonds under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.003. GENERAL AUTHORITY TO ACT. (a) Except as provided in Subsection (b), a county acting through its commissioners court may:

- (1) construct, acquire, improve, operate, and maintain a project;
- (2) authorize by resolution and issue revenue bonds, including interim bonds, to pay the cost of construction, acquisition, or improvement of the project; and
- (3) accept a loan, gift, or grant from this state or

the United States and enter into any agreement necessary to obtain the loan, gift, or grant.

(b) A county may not construct a bridge that traverses a ship channel or waterway with a maintained depth of 20 feet or more.

(c) Except as provided by Section 283.104, a county may act as authorized by this chapter without the consent, approval, supervision, or regulation of the state.

(d) A county performs an essential governmental function when it acts as authorized by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. PROVISIONS RELATING TO A PROJECT

Sec. 283.101. ACQUISITION OF PROPERTY. (a) A county acting under this chapter may enter on land, water, or other premises to make a survey, sounding, or examination of the property.

(b) When a condemnation proceeding is filed by a county, the county may take immediate possession of the property being condemned pending the results of the proceeding if the county tenders a bond or other security approved by the court that is sufficient to secure the property owner for damages to the property.

(c) The state grants to a county any easement or right-of-way traversing state property that is necessary or convenient to the construction, acquisition, or efficient operation of a project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.102. MANAGEMENT OF PROJECT. (a) A bond instrument may allow the project to be managed and controlled by a board of trustees while the bonds issued are outstanding.

(b) The bond instrument in providing for a board of trustees must:

- (1) name no more than five board members;
- (2) provide the manner of appointment; and
- (3) specify the powers and duties of the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.103. TOLLS REQUIRED. The county shall impose tolls and other charges for use of the project in amounts that are sufficient to:

- (1) pay operation and maintenance costs of the project;
- (2) pay principal and interest when due on the bonds;
- (3) establish a reserve fund if required; and
- (4) establish an adequate depreciation and replacement fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.104. OPERATION AND MAINTENANCE OF PROJECT. (a) The commission may:

- (1) agree with a county to operate, maintain, or contribute to the maintenance costs of a project if the agreement is not inconsistent with the rights of the bondholders;
- (2) lease a project from a county under terms that are agreed to by the county and that are not inconsistent with the bond instrument; and
- (3) declare or operate all or part of a project as part of the state highway system only if the property and contract rights in the project and in the bonds are not unfavorably affected.

(b) The project shall become part of the state highway system and the commission shall maintain the project free of tolls when:

- (1) the principal and interest due on the bonds are paid; or
- (2) a sufficient reserve to pay the principal and interest due on the bonds until maturity has been deposited in an irrevocable trust fund for the benefit of the bondholders.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. PROVISIONS RELATING TO BONDS

Sec. 283.201. BOND PROCEEDS. (a) Except as provided in Subsection (b), the proceeds of bonds issued under this chapter

shall be:

(1) used only to pay the cost of the project described by Section 283.202; and

(2) disbursed consistent with the terms of the bond instrument.

(b) Bond proceeds remaining after the cost of the project has been paid in full shall be used to pay interest on and retire the bonds.

(c) Unless otherwise provided in a bond instrument, if the bond proceeds are insufficient to pay the cost of the project, additional bonds may be issued up to the amount of the deficit and the bonds are:

(1) considered part of the same issue as the bonds first issued; and

(2) entitled to payment from the same fund without preference or priority of the bonds first issued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.202. COSTS AND EXPENSES. (a) The cost of the project may include:

(1) the cost of construction;

(2) the cost of all property used in the construction, acquisition, improvement, operation, or maintenance of the project;

(3) payment of the cost of condemning property, including the award, court costs, and attorney's fees;

(4) payment of all legal, fiscal, or engineering expenses incurred in the acquisition or construction of the project, the making of any preliminary survey or investigation, or the authorization and issuance of the bonds; and

(5) payment of interest on the bonds before construction, during construction, and for one year after construction of the project.

(b) Any preliminary expense paid from a county fund shall be repaid to the fund from the proceeds of the bonds when available.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.203. SOURCE OF REPAYMENT. (a) A bond authorized by this chapter may be paid only from the revenues received from the operation of the project.

(b) The bond is not a debt of the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.204. DEPOSITORY FOR PROCEEDS AND REVENUES. A bank or trust company in this state may:

(1) act as a depository of bond proceeds or revenues received from the operation of a project; and

(2) provide an indemnity bond or pledge securities required by the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.205. TRUST INDENTURE PERMITTED. (a) A bond authorized by this chapter may be secured by a trust indenture between the county and a corporate trustee that is a trust company or bank with the powers of a trust company.

(b) A trust indenture may pledge or assign revenues.

(c) A trust indenture may not convey or mortgage all or part of the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.206. BOND PROVISIONS. (a) A bond authorized by this chapter shall contain 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."

(b) A bond instrument may contain provisions:

(1) that restrict individual rights of action of a bondholder;

(2) that detail the rights and remedies of a bondholder and a trustee;

(3) to protect and enforce as reasonable the rights and remedies of a bondholder, including covenants detailing the duties of the county in:

(A) acquiring property and constructing, maintaining, operating, repairing, and insuring the project; and

(B) maintaining custody of the bond proceeds and revenues and safeguarding and applying the funds; and

(4) to secure as reasonable a bondholder, including covenants detailing:

(A) an event that constitutes an event of default;

(B) terms and conditions that would or could result in an acceleration of the bond maturity date; and

(C) rights, liabilities, powers, and duties that arise because of a breach by the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.207. BOND APPROVAL AND REGISTRATION. (a) A bond issued under this chapter may be presented to the attorney general for approval in the same manner and with like effect as is provided for the approval of a tax bond issued by a county.

(b) After approval by the attorney general, the comptroller shall register the bonds as in the case of other county bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.208. RIGHTS OF BONDHOLDERS. (a) A bond issued under this chapter creates and grants a lien on bond proceeds in favor of a bondholder until the bond is paid.

(b) In addition to other legal remedies, a bondholder may enforce the bondholder's rights against:

(1) a county and its employees; and

(2) a board, including an agent or employee, created to operate the project.

(c) A bondholder's rights include the right to:

(1) require the county or board to:

(A) impose and collect sufficient tolls and other charges to carry out agreements in the bond instrument; and

(B) perform an agreement, covenant, or duty provided in the bond instrument; and

(2) apply for and obtain the appointment of a receiver for the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.209. RECEIVERSHIP. (a) A receiver appointed under Section 283.208, acting in the same manner as the county, may:

- (1) take possession of the project;
- (2) maintain the project; and
- (3) collect and receive revenues received from the project.

(b) The receiver shall dispose of and apply revenues:

- (1) according to the obligations of the county under the bond instrument; and
- (2) as directed by a court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.210. TAX STATUS OF BONDS. A bond issued under this chapter, the transfer of and income from the bond, and any profit made in the sale of the bond is exempt from taxation by this state or a political subdivision of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.