

LOCAL GOVERNMENT CODE

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, 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, 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, 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, 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.

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, Sec. 5, eff. September 1, 2005.

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, 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. The incorporation of any area in a park district does not affect the district's boundaries.

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

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.