

TRANSPORTATION CODE
CHAPTER 317. ELIMINATION OF GRADE-LEVEL STREET CROSSINGS BY
RAILROAD LINES IN MUNICIPALITIES WITH POPULATION OF MORE THAN
100,000

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 317.001. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality with a population of more than 100,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.002. DEFINITION. In this chapter, "facility" means property that the governing body of a municipality considers necessary for the elimination of a grade-level crossing by a railroad line from a street of the municipality or for the relocation of a railroad line within the municipality, including:

- (1) land;
- (2) a right-of-way;
- (3) an elevated structure;
- (4) a grade separation;
- (5) an underpass or overpass;
- (6) a passenger station, depot, or other building;
- (7) an interchange yard;
- (8) a railroad track; and
- (9) any other improvement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.003. AUTHORITY REGARDING FACILITIES. (a) To decrease hazards to life or property, promote public safety or convenience, improve traffic conditions, or encourage the orderly development of the municipality, a municipality may acquire, construct, improve, enlarge, extend, maintain, repair, or replace a facility.

(b) Activities authorized by Subsection (a) include:

- (1) removing and relocating railroad tracks, a utility line or pipe, or another improvement;
- (2) removing or demolishing a building or another improvement;
- (3) paying for damage to other property in connection with an activity described by that subsection; or
- (4) improving a street in connection with an activity described by that subsection.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.004. APPLICABILITY OF OTHER LAW. Except to the extent that it conflicts or is inconsistent with this chapter, Subchapter B, Chapter 1502, Government Code, applies to revenue bonds issued under this chapter, and a municipality to which this chapter applies has, with respect to a revenue bond issued under this chapter, each power granted by that subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.005. CONFLICT OR INCONSISTENCY WITH MUNICIPAL CHARTER. To the extent of a conflict or inconsistency between this chapter and a municipal charter, this chapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.006. AGREEMENTS. (a) In this section, "agreement" includes a contract, lease, conveyance, contract of sale, or lease-purchase contract.

(b) The governing body of a municipality may enter into an agreement with any person with respect to a facility, including an agreement in connection with or incidental to the acquisition, financing, construction, or operation of a facility, if the governing body:

- (1) considers the agreement necessary or convenient to implement this chapter; and
- (2) authorizes the agreement by ordinance or resolution.

(c) The mayor or other presiding officer of the municipality must execute the agreement, and the municipal secretary or clerk must attest to the agreement.

(d) An agreement entered into by a municipality under this chapter is binding on the municipality and its governing body.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.007. EMINENT DOMAIN. (a) A municipality may exercise the power of eminent domain to acquire the fee simple title to, an easement in, or a right-of-way over or through any property, including water or land under water, that the governing body of the municipality determines necessary to accomplish a purpose provided by Section 317.003.

(b) A municipality may not condemn property under Subsection (a) if the property is used for cemetery purposes.

(c) A municipality shall pay adequate compensation to the owner of property that is taken, damaged, or destroyed in the accomplishment of a purpose provided by Section 317.003.

(d) A municipality may pay compensation and damages adjudicated in a condemnation proceeding or damage to the property of a person in the accomplishment of a purpose provided by Section 317.003 from:

(1) the proceeds of tax or revenue bonds issued under this chapter; or

(2) other available municipal money.

(e) Chapter 21, Property Code, governs the procedure for the exercise of the power of eminent domain under this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

SUBCHAPTER B. MANAGEMENT AND CONTROL OF FACILITIES; BOARD OF TRUSTEES

Sec. 317.051. DEFINITION. In this subchapter, "board" means a board of trustees established under Section 317.052.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.052. MANAGEMENT AND CONTROL BY GOVERNING BODY OR BOARD. An ordinance authorizing the issuance of revenue bonds under this chapter may provide that while the principal of or interest on the bonds is outstanding, and regardless of whether the facility is encumbered under Section 317.112, management and control of the facility is vested in:

(1) the governing body of the municipality; or

(2) the board of trustees named in the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.053. COMPOSITION OF BOARD. A board may consist of not more than seven members, one of whom must be a member of the governing body of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.054. ORGANIZATION AND DUTIES OF BOARD. (a) An ordinance under Section 317.052 that vests management and control of a facility in a board must:

(1) specify the board members' compensation, which may not exceed five percent of the gross revenue of the facility;

(2) specify the members' terms of office;

(3) specify the members' powers and duties and the manner of exercising those powers and duties;

(4) provide for the election or appointment of the members' successors; and

(5) specify any other matter relating to the members' organization and duties.

(b) On any matter not covered by the ordinance, the board is governed by the laws and rules governing the governing body of the municipality to the extent applicable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

SUBCHAPTER C. BONDS

Sec. 317.101. DEFINITION. In this subchapter, "net revenue" means the gross revenue derived from the operation or use of a facility the net revenue of which is pledged to the payment of a bond less the reasonable expenses of maintaining and operating the facility, including necessary repair and insurance of the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.102. AUTHORITY TO ISSUE BONDS. The governing body of a municipality by ordinance may issue tax bonds, revenue bonds, or both to provide money for a facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.103. ELECTION. (a) Tax bonds, other than refunding bonds, may be issued only if authorized by a majority of the qualified voters voting at an election held under Chapter 1251, Government Code.

(b) The governing body of a municipality may:

(1) submit a proposition for the issuance of revenue bonds at an election held in the manner provided by Subsection (a) for tax bonds; or

(2) issue revenue bonds without an election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.104. MATURITY. A bond issued under this chapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.105. SIGNATURES. A bond issued under this chapter must be signed by the mayor or presiding officer of the municipality

and countersigned by the municipal secretary or clerk.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.106. SALE OF BONDS. A municipality may sell bonds issued under this chapter at a public or private sale under terms determined by the governing body to be the most advantageous and reasonably obtainable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.107. CONTENTS OF ORDINANCE AUTHORIZING ISSUANCE OF REVENUE BONDS. (a) The ordinance of the governing body of the municipality authorizing the issuance of revenue bonds and the related proceedings may:

(1) provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, reserve fund, or other fund;

(2) specify a depository for the money; and

(3) contain any additional covenant, as considered appropriate, with respect to the bonds, the pledged revenue, and the operation and maintenance of each facility the net revenue of which is pledged, including provisions for:

(A) the lease of a facility; and

(B) the use or pledge of money derived from that lease.

(b) The ordinance or related proceeding may:

(1) prohibit the further issuance of bonds or other obligations payable from pledged revenue; or

(2) reserve the right to issue additional bonds to be secured by a pledge of and payable from the net revenue on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to any condition provided by the ordinance or related proceeding.

(c) The ordinance or related proceeding may contain any other provision or covenant determined by the governing body.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.108. ADOPTION AND EXECUTION OF DOCUMENTS. The governing body of a municipality may adopt and have executed any other proceeding or instrument necessary or convenient in the issuance of revenue bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.109. REVIEW AND APPROVAL OF CONTRACTS RELATING TO REVENUE BONDS. (a) If revenue bonds issued under this chapter state that they are secured in whole or in part by a pledge of the proceeds from a contract between the municipality and another person, a copy of the contract and of the proceedings authorizing the contract must be submitted to the attorney general with the bond record.

(b) The approval by the attorney general of the bonds is approval of the contract.

(c) After approval, the contract is incontestable except for forgery or fraud.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.110. SECURITY FOR AND PAYMENT OF BONDS PAYABLE FROM REVENUE. (a) Revenue bonds may be secured by a pledge of and paid from:

(1) the net revenue derived from the operation or use of all or a designated part of a facility then in existence or to be improved, constructed, or acquired;

(2) the revenue, proceeds, or payments that will accrue to or be received by the municipality under a lease-purchase contract or contract of sale relating to a facility; or

(3) a combination of those sources.

(b) While the principal of or interest on bonds is outstanding, the municipality shall:

(1) impose and collect charges in an amount sufficient to pay:

(A) maintenance and operation expenses of the facility the net revenue of which is pledged;

(B) the interest on the bonds as it accrues; and

(C) the principal of the bonds as the bonds mature; and

(2) make any other payment prescribed by the ordinance or other proceeding authorizing or relating to the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.111. USE OF CERTAIN PROCEEDS. From the proceeds of bonds issued under this chapter, the governing body of a

municipality may appropriate or set aside:

(1) an amount for the payment of interest expected to accrue while a facility is under construction;

(2) an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds; and

(3) in the case of revenue bonds, an amount required by the ordinance authorizing the issuance of the bonds to be deposited to the credit of a reserve fund or other fund specified by the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.112. ENCUMBRANCE AS ADDITIONAL SECURITY. (a) As additional security for the payment of revenue bonds issued under this chapter, the governing body of a municipality may have executed in favor of the bondholders an indenture or deed of trust that encumbers all or part of a facility the net revenue of which is pledged to the payment of the bonds, including the land on which the facility is located.

(b) An indenture or deed of trust entered into under this section:

(1) may contain terms considered proper by the governing body;

(2) may provide for a grant, to any purchaser at a foreclosure sale, of a franchise to operate the facility for a term not to exceed 40 years from the date of the purchase, subject to all laws regulating same then in force; and

(3) is enforceable in the manner provided under the laws of this state for the enforcement of other encumbrances.

(c) Under a sale ordered under the provisions of an encumbrance entered into under this section, the purchaser and the purchaser's successors or assigns are vested with:

(1) a permit or franchise to maintain the facility that conforms to the provisions stipulated in the indenture or deed of trust;

(2) powers and privileges similar to those of the municipality in the operation of the facility; and

(3) the right to remove all or part of the facility for diversion to other purposes.

(d) The laws of this state other than this chapter do not apply to the authorization or execution of an encumbrance entered into under this chapter or to the granting of a franchise under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

SUBCHAPTER D. REFUNDING BONDS

Sec. 317.151. APPLICABILITY OF LAW RELATING TO ORIGINAL BONDS. The provisions of this chapter relating to original bonds apply to refunding bonds issued under this chapter to the extent the provisions can be made to apply.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.152. AUTHORITY TO ISSUE TAX REFUNDING BONDS. (a) The governing body of a municipality by ordinance may issue tax bonds under this chapter to refund outstanding original or refunding bonds issued by the municipality under this chapter and the accrued interest on those bonds.

(b) Refunding bonds issued under this section may be issued to refund tax bonds of more than one series or issue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.153. AUTHORITY TO ISSUE REVENUE REFUNDING BONDS. The governing body of a municipality by ordinance may issue revenue bonds under this chapter to refund outstanding original or refunding revenue bonds issued by the municipality under this chapter and the accrued interest on those bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.154. TERMS OF ISSUANCE OF REVENUE REFUNDING BONDS. (a) Revenue refunding bonds may:

(1) be combined with new or original revenue bonds into one series or issue;

(2) be issued to refund bonds of more than one series or issue;

(3) combine the pledges securing the bonds to be refunded to secure the revenue refunding bonds; or

(4) be secured by a pledge of other or additional net revenue.

(b) Revenue refunding bonds may bear interest at a rate higher than that of the bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.155. REGISTRATION OF REFUNDING BONDS BY COMPTROLLER. (a) Except as provided by Subsection (b), the comptroller shall register refunding bonds on surrender and cancellation of the bonds to be refunded.

(b) The comptroller shall register refunding bonds without the surrender and cancellation of the bonds to be refunded if the ordinance authorizing the issuance of the refunding bonds requires that the bonds be sold and the proceeds from the sale be deposited where the bonds to be refunded are payable.

(c) Refunding bonds to which Subsection (b) applies may be issued in an amount sufficient to pay the principal of and interest on the bonds to be refunded to the option or maturity date of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.156. ESCROW AGREEMENT. (a) The proceeds from revenue refunding bonds that are deposited as provided by Section 317.155(b) shall be held under an escrow agreement so that the proceeds will be available to pay the principal of and interest on the bonds to be refunded as each becomes due.

(b) The escrow agreement may provide that the proceeds may, until needed to pay principal and interest, be invested in direct obligations of the United States.

(c) Interest earned on an investment described by Subsection (b) shall be considered revenue of the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.