

TRANSPORTATION CODE

CHAPTER 364. TOLL BRIDGES IN COUNTIES BORDERING THE RIO GRANDE
SUBCHAPTER A. ESTABLISHMENT OF TOLL BRIDGE AND GENERAL PROVISIONS

Sec. 364.001. AUTHORITY TO ACQUIRE TOLL BRIDGE. (a) A county bordering the Rio Grande, acting through the commissioners court of the county, as a part of its road and bridge system may acquire a toll bridge by any method, including by:

- (1) construction; or
- (2) purchase of an entire toll bridge or only that part of the toll bridge that is located in this state.

(b) The county is not required to:

- (1) hold an election to authorize the acquisition of a toll bridge under this chapter;
- (2) give or publish notice of its intent to acquire a toll bridge under this chapter; or
- (3) advertise or call for competitive bids in connection with the acquisition of a toll bridge under this chapter.

(c) The county may acquire a toll bridge owned by a corporation by purchasing the toll bridge itself or by purchasing all of the capital stock of the corporation or a sufficient amount of the stock as required by law to dissolve and liquidate the corporation. The county may take title to the stock in the name of the county or in the name of a trustee for the county. After purchasing the stock, the county or its trustee shall:

- (1) vote its shares in the corporation as necessary to vest title to the toll bridge, together with any associated right or property described by Section 364.002 to be acquired in connection with the acquisition of the toll bridge, in the county; and

- (2) immediately dissolve and liquidate the corporation, pay its debts, liabilities, and obligations, wind up its business and affairs, and convey the properties to the county.

(d) The purchase and acquisition of toll bridge property or stock in a corporation under this section must be made at the price and on the terms agreed on by the owners of the property or stock and the commissioners court. The commissioners court shall act under this subsection by appropriate resolution or order consistent with this chapter.

(e) A county may not acquire a toll bridge under this chapter by eminent domain.

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

Sec. 364.002. RIGHTS AND PROPERTIES ASSOCIATED WITH TOLL BRIDGE. When a county acquires a toll bridge under Section 364.001, the county may, as determined by the commissioners court of the county, acquire any or all of the following items in connection with the toll bridge:

- (1) a permit, grant, franchise, right, or privilege granted or extended by the United States, the United Mexican States, or a state, municipality, or political subdivision of the United States or United Mexican States, for or related to the maintenance or operation of the toll bridge or the collection of a toll or charge for the use of the toll bridge;

- (2) an interest in real property in either the United States or the United Mexican States that is held or used for or incident to the maintenance or operation of the toll bridge or an approach to it, or for the use or occupancy of any building or other structure, appurtenance, appliance, road or street, park, grounds, or convenience or facility of any kind relating to or incident to the maintenance or operation of the toll bridge;

- (3) a building or other structure, appurtenance, appliance, equipment, convenience, or facility of any kind held or used for or incident to the maintenance or operation of the toll bridge; or

- (4) any other right or property used for or incident to the maintenance or operation of the toll bridge.

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

Sec. 364.003. LIBERAL CONSTRUCTION. This chapter shall be liberally construed to effect its purposes.

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

SUBCHAPTER B. ADMINISTRATION OF TOLL BRIDGES

Sec. 364.021. APPLICATION OF SUBCHAPTER. This subchapter applies only to a county that acquires a toll bridge under Section 364.001.

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

Sec. 364.022. MAINTENANCE AND OPERATION OF TOLL

BRIDGES. (a) A county through the commissioners court of the county may own, hold, control, maintain, and operate the toll bridge and may make or provide for any repairs or improvements to the bridge. To carry out this subsection, the county may acquire property by eminent domain under general law.

(b) The county may:

(1) renew or extend an existing franchise or obtain a new or additional franchise for the toll bridge; and

(2) render services to the public and to the users of the toll bridge.

(c) To accomplish the purposes of this section, the county may enter into and carry out a contract, agreement, or undertaking of any kind required by the United States or the United Mexican States or a department, officer, governmental agency, or public authority of the United Mexican States.

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

Sec. 364.023. OPERATING BOARD. The commissioners court of a county by the resolution or order providing for the issuance of bonds under this chapter or by the trust indenture securing those bonds may provide that the toll bridge be operated by an operating board if the court determines that the bridge could be better and more efficiently operated by the board. The operating board:

(1) is appointed as provided by the resolution, order, or trust indenture; and

(2) has the powers granted by the resolution, order, or trust indenture but may not be granted the power of eminent domain or the power to borrow money.

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

Sec. 364.024. RECREATIONAL FACILITIES. (a) A county, in connection with the maintenance and operation of the toll bridge, may acquire real property or another site adjacent to the toll bridge to construct, maintain, or operate a park, recreational grounds or facilities, a camp, quarters, accommodations, or other facility for the use and convenience of the public. The county may manage and regulate those facilities and may adopt and enforce reasonable rules for those facilities.

(b) A county may not acquire property under this section by eminent domain.

(c) The county may impose a fee, rental, or other charge for the use of a facility established under this section. The charge must be just, reasonable, and nondiscriminatory.

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

SUBCHAPTER C. BONDS AND FINANCES

Sec. 364.041. TOLLS. (a) A county that acquires a toll bridge under this chapter or that owns or controls any international toll bridge, by order or resolution of the commissioners court, may impose tolls and other charges for the use of the bridge and for the transportation of persons or property, including passengers, vehicles, or freight and commodities, over the bridge.

(b) In accordance with any applicable permit or franchise granted by a governmental authority, the tolls must be just, reasonable, nondiscriminatory, and sufficient to provide revenue in an amount that is at least adequate to:

(1) pay all expenses necessary to maintain and operate the toll bridge or bridges;

(2) make necessary payments and comply with any applicable permit or franchise;

(3) pay the interest on and principal of all bonds or warrants issued under this chapter as due;

(4) pay as due all sinking fund or reserve fund payments agreed to be made in connection with bonds or warrants issued under this chapter and payable from that revenue;

(5) comply with any agreement made with the holders of bonds or warrants issued under this chapter or with any person on behalf of those holders; and

(6) recover a reasonable rate of return on invested capital.

(c) The commissioners court may use revenue received under this section in excess of the amounts required by Subsection (b) to:

(1) establish a reasonable depreciation and emergency fund;

(2) retire by purchase and cancellation or by redemption any outstanding bonds or warrants issued under this chapter;

(3) provide needed budgetary support to local government for public purposes and the general welfare; or

(4) accomplish the purposes of this chapter.

(d) The commissioners court shall impose tolls and other charges under this section for use of a bridge subject to an encumbrance.

(e) This chapter does not deprive this state, the United States, or any other agency having jurisdiction of its power to regulate or control tolls and other charges to be collected for a purpose listed in Subsection (b) or (c).

(f) Until bonds or warrants issued under this chapter have been paid and discharged, together with all interest on the bonds or warrants, interest on unpaid interest installments on the bonds or warrants, other costs or expenses incurred in connection with any acts or proceedings taken by or on behalf of the holders of the bonds or warrants, and all other obligations of the county incurred in connection with the bonds or warrants, this state pledges to and agrees with the purchasers and successive holders of the bonds or warrants that it will not:

(1) limit or alter the power of a county to impose tolls and other charges under this section sufficient to pay the items listed in Subsection (b) or (c); or

(2) take any action that will impair the rights or remedies of the holders of the bonds or warrants or of persons acting on their behalf.

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

Sec. 364.042. AUTHORITY TO BORROW MONEY OR ACCEPT FEDERAL ASSISTANCE. (a) To accomplish the purposes of this chapter, a county may:

(1) borrow money from any person or corporation; or

(2) borrow money or accept grants from the United States or a corporation or agency created by or authorized to act as an agency of the United States.

(b) In connection with a loan or grant under Subsection (a)(2), a county may enter into any related agreement that the United States, corporation, or agency requires.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.02, eff. Sept. 1, 1999.

Sec. 364.043. AUTHORITY TO ISSUE BONDS. (a) A county, through the commissioners court, may issue, sell, and deliver negotiable bonds to accomplish the purposes of this chapter. The county may use the bonds or the proceeds of the sale of the bonds to acquire a toll bridge under this chapter or may exchange the bonds for property to accomplish the purposes of this chapter.

(b) Bonds issued under this chapter may be authorized by resolution or order from time to time.

(c) Except as required by Section 364.045, a county by resolution or order of its commissioners court may issue bonds under this chapter and use the bonds or proceeds from their sale as provided by this chapter without:

(1) holding an election to authorize that action;

(2) giving or publishing notice of the county's intent to take that action; or

(3) advertising or calling for competitive bids in connection with that action.

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

Sec. 364.044. REVENUE BONDS. (a) Except for bonds issued under Section 364.045, bonds issued under this chapter are not a debt of the county issuing them and are a charge on and payable solely from the revenues of the toll bridge or bridges and appurtenances acquired through the issuance of the bonds, as provided by the bond proceedings.

(b) Revenue bonds issued under this chapter are not considered in determining the authority of a county to issue bonds for any purpose authorized by law.

(c) A revenue bond issued under this chapter must include 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."

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

Sec. 364.045. COMBINATION BONDS AND AD VALOREM TAX TO FINANCE INTERNATIONAL TOLL BRIDGE OR IMPROVEMENT. (a) A county may issue combination tax and revenue bonds to construct all or part of an international toll bridge or other improvement spanning the Rio Grande and may impose an ad valorem tax to pay all or part of the

bonds if the issuance of the bonds and the imposition of the tax are approved by a majority of the votes received at an election held in the county for that purpose.

(b) The commissioners court of a county may call an election under this section on its own motion at any regular session of the court. The commissioners court shall call an election under this section at the next regular session of the court following the submission to the court of a petition requesting the election signed by a number of registered voters of the county that is equal to at least one percent of the number of votes cast in the county in the most recent general election for governor.

(c) The election order and notice of election must include:

- (1) the purpose for which the bonds are to be issued;
- (2) the amount of the bonds;
- (3) the rate of interest; and
- (4) a statement that unlimited ad valorem taxes are to be imposed annually on all taxable property in the county in amounts sufficient, together with revenues from the county toll bridge or toll bridge system, to pay the bonds at maturity.

(d) The bonds must be made payable from revenues of the county toll bridge or toll bridge system and from ad valorem taxes imposed and collected in accordance with Section 52, Article III, Texas Constitution. The ad valorem taxes must be imposed in amounts that, together with revenues from the county toll bridge or toll bridge system, are sufficient to retire the bonds.

(e) The county may execute an agreement, contract, or trust with a private entity or with the United Mexican States or a political subdivision, department, or agency of the United Mexican States to finance, construct, operate, or maintain an international toll bridge in its entirety or other improvement spanning the Rio Grande.

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

Sec. 364.046. MORTGAGE OR PLEDGE OF REVENUE TO SECURE BONDS. To accomplish any of the purposes of this chapter, a county authorized to issue bonds under this chapter with respect to those bonds may:

- (1) mortgage or pledge:
 - (A) all or part of any interest in the county's toll bridge or bridges, together with any associated right or property described by Section 364.002, or any other property acquired or to be acquired with the bonds or the proceeds of the sale of the bonds; or
 - (B) all or part of the net or gross revenues of any property described by Paragraph (A);

- (2) secure the payment of the principal and interest on the bonds and of the sinking fund and reserve fund agreed to be established in connection with the bonds; and

- (3) enter into any covenant or agreement with the purchasers of the bonds or any person on behalf of those purchasers with respect to the bonds to secure the payments described by Subdivision (2) and to provide rights and remedies to the purchasers or holders of the bonds or any person on their behalf as the commissioners court may provide by order or resolution.

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

Sec. 364.047. ADDITIONAL BONDS. (a) A county that has outstanding bonds payable from the revenue of a toll bridge or bridges may issue additional bonds to the extent and under the conditions prescribed by the provisions of the outstanding bonds and the proceedings related to those bonds, including any trust indenture securing those bonds. The additional bonds may be secured by a pledge of and a lien on the net revenues of the bridge or bridges on a parity with the outstanding bonds under the conditions set out in the proceedings or trust indenture securing and authorizing the outstanding bonds.

(b) A county that has acquired a toll bridge or bridges under this chapter may, in the manner provided by this chapter for the issuance of original bonds, issue and deliver subsequent bonds to repair, improve, reconstruct, or replace a toll bridge. The issuance of bonds under this subsection is subject to the restrictions contained in the resolution or order of the commissioners court authorizing the original bonds and in the deed of indenture, if any, securing the issuance of the original issue of bonds.

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

Sec. 364.048. TERMS OF BONDS; NEGOTIABILITY. (a) The

commissioners court may prescribe the terms and conditions of bonds issued under this chapter and determine the manner of their sale. The commissioners court by order or resolution shall determine:

- (1) the aggregate principal amount or amounts of the bonds;
- (2) the denominations of the bonds;
- (3) the date or dates of maturity;
- (4) the rate or rates of interest;
- (5) whether the bonds are payable annually or semiannually, and on what dates;
- (6) the form of the bonds;
- (7) the terms, provisions, and conditions of the bonds;
- (8) whether the bonds are coupon or registered bonds, and any registration privileges;
- (9) provisions for the call or redemption of the bonds before maturity; and
- (10) the place or places, in or outside of this state, at which the bonds are payable.

(b) Bonds issued under this chapter have all the qualifications and incidents of negotiable instruments as provided by the law of this state.

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

Sec. 364.049. SALE OR EXCHANGE OF BONDS. A bond issued under this chapter may be:

- (1) sold for cash at a public or private sale at a price determined by the commissioners court;
- (2) issued on terms determined by the commissioners court in exchange for property of any kind or an interest in property of any kind, as the commissioners court determines is necessary and proper to accomplish a purpose of this chapter; or
- (3) issued in exchange for a bond of the same issue, matured or unmatured, in the same principal amount.

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

Sec. 364.050. TRUST INDENTURE. (a) Bonds issued under this chapter may be secured by a trust indenture between the county and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(b) The trust indenture may:

- (1) pledge or assign the tolls, charges, and revenues from the operation of the toll bridge or bridges; or
- (2) mortgage all or part of the toll bridge or bridges.

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

Sec. 364.051. DEPOSITORY OF BOND PROCEEDS AND OTHER REVENUE. (a) Any bank or trust company in this state may be the depository of the proceeds of bonds issued under this chapter or revenues derived from the operation of a toll bridge acquired under this chapter.

(b) The cash proceeds of the sale shall be deposited in the depository and shall be paid under the terms and conditions agreed on by the commissioners court and the purchasers of the bonds.

(c) A depository may furnish the indemnity bonds or pledge the securities required by the county.

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

Sec. 364.052. RIGHTS OF BONDHOLDERS; RECEIVERS. (a) The trust indenture or the order or resolution authorizing the issuance of bonds under this chapter may include provisions to protect and enforce the rights and remedies of bondholders, including covenants determining the duties of the county in relation to:

- (1) the acquisition of properties and the construction, maintenance, operation, repair, and insurance of the toll bridge or bridges; and
- (2) the custody, safekeeping, and disposition of the county's toll bridge revenues.

(b) The holder of a bond issued under this chapter, including the trustee for a bondholder, in addition to all other rights may by mandamus or other judicial proceeding enforce the bondholder's rights against the county and its officers and employees, including the right to:

- (1) require the county and its commissioners court:
 - (A) to impose and collect sufficient tolls and charges to carry out the agreements contained in the bond resolution or order or the trust indenture; or
 - (B) to perform each agreement or covenant in the bond resolution or trust indenture and each duty arising from the

agreement or covenant; or

(2) apply for and obtain the appointment of a receiver for the toll bridge or bridges.

(c) A receiver appointed under this section may enter and take possession of and maintain a toll bridge and collect all revenues and tolls derived from the bridge in the same manner as the county. The receiver shall apply the money collected under this subsection in accordance with the county's obligations under the bond resolution or order or under the trust indenture and as the court may direct.

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

Sec. 364.053. REFUNDING BONDS. The commissioners court by resolution or order may issue bonds to refund outstanding bonds that were issued under this chapter, subject to any restriction in the bond resolutions or orders or in the trust indentures relating to the issuance of the bonds.

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

Sec. 364.054. TAX EXEMPTIONS; PAYMENTS IN LIEU OF TAXES. (a) A county carrying out this chapter may not be required to pay an assessment on property acquired under this chapter.

(b) Bonds issued under this chapter, the transfer of those bonds, and income from those bonds, including profits from their sale, are exempt from taxation in this state.

(c) A county that purchases a toll bridge under this chapter from a private owner may make payments, in amounts determined by the commissioners court, in lieu of ad valorem taxes previously paid by the owner to any common or independent school district in which the property is located. The payments are considered operating expenses of the toll bridge for purposes of this chapter.

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

Sec. 364.055. LIMITATIONS ON COUNTY AUTHORITY. Except as provided by Section 364.045, this chapter does not authorize a county to:

(1) impose or collect a tax or assessment or pledge the credit of this state; or

(2) issue, sell, or deliver a bond, create an obligation, incur a liability, or enter an agreement to be paid, performed, met, or discharged using any tax or assessment.

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