

TRANSPORTATION CODE
CHAPTER 472. MISCELLANEOUS PROVISIONS
SUBCHAPTER A. GOVERNMENT CONTRACTS FOR JOINT PAYMENT OF CERTAIN
HIGHWAY COSTS

Sec. 472.001. CONTRACTS BETWEEN CERTAIN GOVERNMENTAL ENTITIES TO ENGAGE IN JOINT PROJECT. (a) A state agency, political subdivision, or road district of a county may contract with a transportation corporation created by the commission under Chapter 431 or with another state agency, political subdivision, or road district to jointly pay all or part of the cost of:

(1) acquiring, designing, constructing, improving, or beautifying a state or local highway, turnpike, road, or street project;

(2) acquiring an interest in any real property required for or beneficial to the project; and

(3) adjusting utilities for the project.

(b) Costs of a project or payments required under a contract may be met out of bond proceeds, taxes, or other funds available for that purpose.

(c) A road district of a county or a political subdivision may:

(1) issue bonds to pay costs of a project if it determines the project will benefit it; or

(2) impose taxes in an amount necessary to create a sinking fund for payments required by a contract that provides for payment over a term of years.

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

Sec. 472.002. CONTRACTS INVOLVING POLITICAL SUBDIVISION OR ROAD DISTRICT TO CONSTRUCT AND MAINTAIN HIGHWAY. The governing body of a political subdivision or road district that determines an improvement is reasonable, necessary, and beneficial to the subdivision or district may contract with another governmental entity to:

(1) acquire with bond proceeds necessary rights-of-way for the road or highway; and

(2) construct and maintain the road or highway in cooperation with the entity.

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

Sec. 472.003. COUNTY PAYMENTS FOR JOINT HIGHWAY PROJECTS. (a) The commissioners court of a county may issue bonds and contract with a road district, road utility district, state agency, or other governmental entity in the manner, for the term, and to the extent it may contract under Chapter 362, on determining that a road project, including a toll road project authorized under Chapter 441, is reasonable, necessary, and beneficial to the county.

(b) To pay the cost of a road project that serves the county and a road district of a county or road utility district, the commissioners court may:

(1) dedicate ad valorem taxes paid by owners of property in the county or district; or

(2) use other county money.

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

SUBCHAPTER B. DEPARTMENT AUTHORITY TO REMOVE PROPERTY FROM STATE
HIGHWAYS

Sec. 472.011. DEFINITION. In this subchapter, "personal property" includes personal property of any kind or character, including:

(1) a vehicle, as defined by Section 502.001, that is damaged or disabled;

(2) spilled cargo;

(3) a hazardous material as defined by 49 U.S.C. App. Section 1802; and

(4) a hazardous substance as defined by Section 26.263, Water Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.43(a), eff. Sept. 1, 1997.

Sec. 472.012. DEPARTMENT AUTHORITY GENERALLY. (a) The department may remove personal property from the right-of-way or roadway of the state highway system if the department determines the property blocks the roadway or endangers public safety.

(b) The department may remove the personal property without the consent of the owner or carrier of the property.

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

Sec. 472.013. OWNER AND CARRIER RESPONSIBLE FOR COSTS OF

REMOVAL AND DISPOSITION. The owner and the carrier of personal property removed under this subchapter shall reimburse the department for the costs of removal and disposition.

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

Sec. 472.014. DEPARTMENT NOT LIABLE FOR DAMAGES. Notwithstanding any other provision of law, the department and its officers and employees are not liable for:

(1) any damage to personal property resulting from its removal or disposal by the department unless the removal or disposal is carried out recklessly or in a grossly negligent manner; or

(2) any damage resulting from the failure to exercise authority granted under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.43(b), eff. Sept. 1, 1997.

Sec. 472.015. CONTRACTS FOR REMOVAL OF PROPERTY. In contracting with a private business or businesses for the removal of personal property from the right-of-way or roadway of the state highway system, the department may:

(1) use a purchasing method described in Chapter 2156, Government Code;

(2) include the removal work in a contract entered into under Chapter 223; or

(3) select a business or businesses based on an evaluation of the experience of the business and the price and quality of the business's equipment and services.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 9.01, eff. June 15, 2001.

SUBCHAPTER C. CRIMINAL OFFENSES AND PENALTIES REGARDING WARNING SIGNS AND BARRICADES

Sec. 472.021. TAMPERING WITH WARNING DEVICES. (a) A person commits an offense if the person tampers with, damages, or removes a barricade, flare pot, sign, flasher signal, or other device warning of construction, repair, or detour on or adjacent to a highway set out by the state, a political subdivision, a contractor, or a public utility.

(b) This section does not apply to a person acting within the scope and duty of employment if the person is:

(1) an officer, agent, independent contractor, employee, or trustee of the state or a political subdivision;

(2) a contractor; or

(3) a public utility.

(c) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$25 or more than \$1,000;

(2) confinement in a county jail for a term not to exceed two years; or

(3) both the fine and the confinement.

(d) In this section:

(1) "Contractor" means a person engaged in highway construction or repair under contract with this state or a political subdivision of this state.

(2) "Highway" means the entire width between the boundary lines of a publicly maintained way, any part of which is open to the public for vehicular travel or any part of which is under construction or repair and intended for public vehicular travel on completion. The term includes the space above or below the highway surface.

(3) "Person" means an individual, firm, association, or corporation and includes an officer, agent, independent contractor, employee, or trustee of that individual or entity.

(4) "Political subdivision" includes a county, municipality, local board, or other body of this state having authority to authorize highway construction or repair.

(5) "Public utility" means:

(A) a telegraph, telephone, water, gas, light, or sewage company or cooperative;

(B) a contractor of a company or cooperative described by Subdivision (A); or

(C) another business recognized by the legislature as a public utility.

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

Sec. 472.022. OBEYING WARNING SIGNS AND BARRICADES. (a) A person commits an offense if the person:

(1) disobeys the instructions, signals, warnings, or

markings of a warning sign; or

(2) drives around a barricade.

(b) This section does not apply to:

(1) a person who is following the directions of a police officer; or

(2) a person, including an employee of the department, a political subdivision of this state, or a contractor or subcontractor, whose duties require the person to go beyond or around a barricade.

(c) Each violation of this section is a separate offense.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than \$1 or more than \$200, except that:

(1) if the offense is committed in a construction or maintenance work zone when workers are present and any written notice to appear issued for the offense states on its face that workers were present when the offense was committed, the offense is a misdemeanor punishable by a fine of not less than \$2 or more than \$400; or

(2) if a person commits an offense under Subsection (a) where a warning sign or barricade has been placed because water is over any portion of a road, street, or highway, the offense is a Class B misdemeanor.

(e) In this section:

(1) "Barricade" means an obstruction:

(A) placed on or across a road, street, or highway of this state by the department, a political subdivision of this state, or a contractor or subcontractor constructing or repairing the road, street, or highway under authorization of the department or a political subdivision of this state; and

(B) placed to prevent the passage of motor vehicles over the road, street, or highway during construction, repair, or dangerous conditions.

(2) "Construction or maintenance work zone" means a portion of a highway or street:

(A) where highway construction or maintenance is being undertaken, other than mobile operations as defined by the Texas Manual on Uniform Traffic Control Devices; and

(B) that is marked by signs:

(i) indicating that it is a construction or maintenance work zone;

(ii) indicating where the zone begins and ends; and

(iii) stating: "Fines double when workers present."

(3) "Warning sign" means a signal, marking, or device placed on a barricade or on a road, street, or highway during construction, repair, or dangerous conditions by the department, a political subdivision of this state, or a contractor or subcontractor to warn or regulate motor vehicular traffic. The term includes a flagger deployed on a road, street, or highway by the department, a political subdivision of this state, or a contractor or subcontractor to direct traffic around or on the road, street, or highway during construction, repair, or dangerous conditions.

(f) Articles 45.051 and 45.0511, Code of Criminal Procedure, do not apply to an offense under this section committed in a construction or maintenance work zone when workers are present.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 674, Sec. 1, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 789, Sec. 1, 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 965, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1088, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 19.005, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 991, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1182, Sec. 3, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 576, Sec. 1, 2 eff. Sept. 1, 2005.

SUBCHAPTER D. METROPOLITAN PLANNING ORGANIZATIONS

Sec. 472.031. DEFINITIONS. In this subchapter:

(1) "Metropolitan planning organization" means a metropolitan planning organization designated or redesignated under 23 U.S.C. Section 134.

(2) "Policy board" means the policy board of a metropolitan planning organization.

Amended by Acts 2005, 79th Leg., ch. 537, Sec. 1, eff. Sept. 1, 2005.

Sec. 472.032. VOTING PROXIES BY POLICY BOARD MEMBERS. (a) A policy board may provide in its bylaws for appointment of voting proxies by its members.

(b) A proxy appointed under Subsection (a):

(1) acts on behalf of and under the supervision of the policy board member who appointed the proxy;

(2) must be appointed in writing; and

(3) is authorized to vote for the policy board member who appointed the proxy to the extent the member has given the proxy the member's voting power.

Text of subsec. (c) as added by Acts 2005, 79th Leg., ch. 281, Sec. 2.82

(c) A legislative member of a policy board may not be counted as absent at a meeting of the policy board during a legislative session.

Text of subsec. (c) as added by Acts 2005, 79th Leg., ch. 565, Sec. 1

(c) A legislative member of a policy board may only appoint a proxy under Subsection (a) who is:

(1) the legislative member's employee or staff member;

(2) a person related to the member within the second degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, who is not required to register as a lobbyist under Chapter 305, Government Code;

(3) another legislative member of the policy board;

or

(4) a locally elected official.

Added by Acts 2003, 78th Leg., ch. 267, Sec. 1, eff. June 18, 2003. Amended by Acts 2005, 79th Leg., ch. 281, Sec. 2.82, eff. June 14, 2005; Acts 2005, 79th Leg., ch. 565, Sec. 1, eff. June 17, 2005. Redesignated from V.T.C.A., Transportation Code Sec. 472.031 and amended by Acts 2005, 79th Leg., ch. 537, Sec. 1, eff. Sept. 1, 2005.

Sec. 472.033. APPLICABILITY OF CONFLICTS OF INTEREST LAW TO POLICY BOARD MEMBERS. (a) A policy board member is considered to be a local public official for purposes of Chapter 171, Local Government Code.

(b) If a policy board member must abstain from participation in a vote or decision under Section 171.004, Local Government Code, the member's proxy appointed under Section 472.032 may not participate in the vote or decision.

(c) The appointment of a proxy by a policy board member does not excuse the member from filing an affidavit required under Section 171.004, Local Government Code.

Added by Acts 2005, 79th Leg., ch. 537, Sec. 1, eff. Sept. 1, 2005.