

**CHAPTER 375**

**H.B. No. 1096**

An Act relating to the creation, administration, powers, duties, operation, and financing of the Brewster County Hospital District.

*Be it enacted by the Legislature of the State of Texas:*

## ARTICLE 1. GENERAL PROVISIONS

### SECTION 1.01. DEFINITIONS. In this Act:

- (1) "District" means the Brewster County Hospital District.
- (2) "Board" means the board of directors of the district.
- (3) "Director" means a member of the board.

**SECTION 1.02. DISTRICT AUTHORIZATION.** The Brewster County Hospital District may be created and established and, if created, must be maintained, operated, and financed in the manner provided by Article IX, Section 9, of the Texas Constitution and by this Act.

**SECTION 1.03. BOUNDARIES.** The boundaries of the district are coextensive with the boundaries of Brewster County.

## ARTICLE 2. TEMPORARY DIRECTORS

**SECTION 2.01. APPOINTMENT OF TEMPORARY DIRECTORS.** On the effective date of this Act, the Commissioners Court of Brewster County shall appoint five persons to serve as temporary directors of the district.

**SECTION 2.02. VACANCY IN OFFICE.** A vacancy in the office of temporary director shall be filled by appointment made by the Commissioners Court of Brewster County.

## ARTICLE 3. CREATION OF DISTRICT

**SECTION 3.01. CREATION ELECTION.** The district may be created and a tax may be authorized only if the creation and the tax are approved by a majority of the qualified voters of the territory of the proposed district voting at an election called and held for that purpose.

**SECTION 3.02. ORDERING ELECTION.** The temporary directors of the district shall order a creation election to be held.

**SECTION 3.03. ELECTION ORDER.** The order calling the election must state:

- (1) the nature of the election, including the proposition that is to appear on the ballot;
- (2) the date of the election;
- (3) the hours during which the polls will be open; and
- (4) the location of the polling places.

**SECTION 3.04. NOTICE.** The temporary directors shall give notice of the election by publishing a substantial copy of the election order in a newspaper with general circulation in the proposed district once a week for two consecutive weeks. The first publication must appear at least 35 days before the date set for the election.

**SECTION 3.05. ELECTION DATE.** (a) The election shall be held not less than 35 days nor more than 60 days after the date on which the election is ordered.

(b) A general law requiring elections to be held on uniform or specified election dates does not apply to an election ordered under this article.

**SECTION 3.06. BALLOT PROPOSITION.** The ballot for an election at which the issuance of bonds is not proposed shall be printed to permit voting for or against the proposition: "The creation of the Brewster County Hospital District and the levy of annual taxes for hospital purposes at a rate not to exceed 20 cents on each \$100 valuation of all taxable property in the district."

**SECTION 3.07. CANVASSING RETURNS.** (a) Not later than the 10th day after the date of the election, the temporary directors of the district shall meet and canvass the returns of the election.

(b) If the temporary directors find that the election results are favorable to the proposition to create the district, they shall issue an order declaring the district created.

(c) If the temporary directors find that the election results are not favorable to the proposition to create the district, another creation election may not be held within 12 months after the date of the election at which voters disapproved the proposition.

**SECTION 3.08. EXPIRATION OF ACT.** If the creation of the district is not approved at an election held within 60 months after the effective date of this Act, this Act expires.

## ARTICLE 4. DISTRICT ADMINISTRATION

**SECTION 4.01. BOARD OF DIRECTORS.** (a) The district is governed by a board of five directors.

(b) From the time the creation of the district is approved until the elected directors take office, the temporary directors serve as directors of the district.

**SECTION 4.02. INITIAL DIRECTORS' ELECTION.** Directors shall be elected at an election to be held on the first Saturday in April following the creation of the district.

**SECTION 4.03. METHOD OF ELECTION; STAGGERED TERMS; TERM OF OFFICE; ELECTION DATE.** (a) One director shall be elected from each commissioner precinct and one director shall be elected from the district at large.

(b) At the initial election of directors, the candidate receiving the highest number of votes from a commissioner precinct is director for that precinct, and the candidate receiving the highest number of votes from the district at large is the director for the district at large.

(c) The candidates elected from odd-numbered precincts at the initial election serve for a term of two years, and the candidates elected from the even-numbered precincts at that election serve for a term of one year. The candidate elected as the director from the district at large at the initial election serves for a term of two years.

(d) After the initial election of directors, an election shall be held on the first Saturday in April each year and the appropriate number of successor directors shall be elected for two-year terms.

**SECTION 4.04. NOTICE OF ELECTION.** At least 35 days before the date of an election of directors, notice of the election shall be published one time in a newspaper with general circulation in the district.

**SECTION 4.05. APPLICATION.** (a) A person who wishes to have his name printed on the ballot as a candidate for director must file an application with the secretary of the board of directors not later than the 31st day before the date of the election.

(b) The application must specify the commissioner precinct the candidate wishes to represent or specify that the candidate wishes to represent the district at large.

**SECTION 4.06. QUALIFICATIONS FOR OFFICE.** (a) To be eligible to be a candidate for or to serve as a director, a person must be:

- (1) a resident of the district; and
- (2) a qualified voter.

(b) In addition to the qualifications required by Subsection (a) of this section, a person who is elected from a commissioner precinct or who is appointed to fill a vacancy for a commissioner precinct must be a resident of that commissioner precinct.

(c) An employee of the district may not serve as a director.

**SECTION 4.07. BOND.** (a) Before assuming the duties of the office, each director must execute a bond for \$5,000 payable to the district, conditioned on the faithful performance of the person's duties as director.

(b) The bond shall be kept in the permanent records of the district.

(c) The board may pay for directors' bonds with district funds.

**SECTION 4.08. BOARD VACANCY.** A vacancy in the office of director shall be filled for the unexpired term by appointment by the remaining directors.

**SECTION 4.09. OFFICERS.** The board shall elect from among its members a president and a vice-president. The board shall also appoint a secretary. The secretary need not be a director.

**SECTION 4.10. OFFICERS' TERM; VACANCY.** (a) Each officer of the board serves for a term of one year.

(b) A vacancy in a board office shall be filled for the unexpired term by the board.

**SECTION 4.11. COMPENSATION.** Directors and officers serve without compensation but may be reimbursed for actual expenses incurred in the performance of official duties. Those expenses must be reported in the district's minute book or other district records and must be approved by the board.

**SECTION 4.12. VOTING REQUIREMENT.** A concurrence of a majority of the members of the board voting is necessary in matters relating to the business of the district.

**SECTION 4.13. ADMINISTRATOR, ASSISTANT ADMINISTRATOR, AND ATTORNEY.** (a) The board may appoint qualified persons as administrator of the district, assistant to the administrator, and attorney for the district.

- (b) The administrator, assistant administrator, and attorney serve at the will of the board.
- (c) The administrator, assistant administrator, and attorney are entitled to compensation as determined by the board.
- (d) Before assuming his duties, the administrator shall execute a bond payable to the hospital district in the amount of not less than \$5,000 as determined by the board, conditioned on the faithful performance of his duties under this Act. The board may pay for the bond with district funds.

**SECTION 4.14. APPOINTMENTS TO STAFF.** The board may appoint to the staff any doctors it considers necessary for the efficient operation of the district and may make temporary appointments as considered necessary.

**SECTION 4.15. TECHNICIANS, NURSES, AND OTHER DISTRICT EMPLOYEES.** (a) The district may employ technicians, nurses, fiscal agents, accountants, architects, additional attorneys, and other necessary employees.

(b) The board may delegate to the administrator the authority to employ persons for the district.

**SECTION 4.16. GENERAL DUTIES OF ADMINISTRATOR.** The administrator shall supervise the work and activities of the district and shall direct the general affairs of the district, subject to the limitations prescribed by the board.

**SECTION 4.17. RETIREMENT BENEFITS.** The board may provide retirement benefits for employees of the district by establishing or administering a retirement program or by electing to participate in the Texas County and District Retirement System or in any other statewide retirement system in which the district is eligible to participate.

## ARTICLE 5. POWERS AND DUTIES

**SECTION 5.01. RESPONSIBILITY OF AND LIMITATION ON GOVERNMENTAL ENTITY.** (a) On creation of the district, Brewster County shall convey or transfer to the district:

- (1) title to land, buildings, improvements, and equipment related to the hospital system owned by Brewster County;
- (2) operating funds and reserves for operating expenses and funds that have been budgeted by Brewster County to provide medical care for residents of the district for the remainder of the fiscal year in which the district is established;
- (3) taxes levied by Brewster County for hospital purposes for the current year; and
- (4) funds established for payment of indebtedness assumed by the district.

(b) On or after creation of the district, Brewster County may not levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care for the residents of the district.

**SECTION 5.02. DISTRICT RESPONSIBILITIES.** On creation of the district, the district:

- (1) assumes full responsibility for operating hospital facilities and for furnishing medical and hospital care for the district's needy inhabitants;
- (2) assumes any outstanding indebtedness incurred by Brewster County in providing hospital care for residents of the territory of the district before the district's creation; and
- (3) may operate or provide for the operation of a mobile emergency medical service.

**SECTION 5.03. MANAGEMENT, CONTROL, AND ADMINISTRATION.** The board shall manage, control, and administer the hospital system and the funds and resources of the district.

**SECTION 5.04. DISTRICT RULES.** The board may adopt rules governing the operation of the hospital and hospital system and the duties, functions, and responsibilities of district staff and employees.

**SECTION 5.05. METHODS AND PROCEDURES.** (a) The board may prescribe the method of making purchases and expenditures by and for the district.

(b) The board may prescribe accounting and control procedures for the district.

**SECTION 5.06. HOSPITAL PROPERTY, FACILITIES, AND EQUIPMENT.** (a) The board shall determine the type, number, and location of buildings required to establish and maintain an adequate hospital system and the type of equipment necessary for hospital care.

(b) The board may acquire property, facilities, and equipment for the district for use in the hospital system and may mortgage or pledge the property, facilities, or equipment acquired as security for the payment of the purchase price.

(c) The board may lease hospital facilities on behalf of the district.

(d) The board may sell or otherwise dispose of property, facilities, or equipment on behalf of the district.

**SECTION 5.07. CONSTRUCTION CONTRACTS.** (a) The board may enter into construction contracts on behalf of the district; however, the board may enter into construction contracts that involve spending more than \$10,000 only after competitive bidding as provided by Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes).

(b) Article 5160, Revised Statutes, as it relates to performance and payment bonds, applies to construction contracts let by the district.

**SECTION 5.08. DISTRICT OPERATING AND MANAGEMENT CONTRACTS.** The board may enter into operating or management contracts relating to hospital facilities on behalf of the district.

**SECTION 5.09. EMINENT DOMAIN.** (a) The district may exercise the power of eminent domain to acquire by condemnation a fee simple or other interest in property located in the territory of the district if the property interest is necessary to the exercise of the rights or authority conferred by this Act.

(b) The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, but the district is not required to deposit in the trial court money or execute a bond as provided by Section 21.021(a)(2) or (3), Property Code.

(c) In a condemnation proceeding brought by the district, the district is not required to pay in advance or give bond or other security for costs in the trial court, to give bond for the issuance of a temporary restraining order or a temporary injunction, or to give bond for costs or supersedeas on an appeal or writ of error.

**SECTION 5.10. EXPENSES FOR MOVING FACILITIES OF RAILROADS AND UTILITIES.** In exercising the power of eminent domain, if the board requires relocating, raising, lowering, rerouting, changing the grade, or altering the construction of any railroad, highway, pipeline, or electric transmission, telegraph, or telephone lines, conduits, poles, or facilities, the district must bear the actual cost of relocating, raising, lowering, rerouting, changing the grade, or altering the construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

**SECTION 5.11. INDIGENT CARE.** (a) If an individual residing in the district is admitted as a patient to a facility of the district, the administrator may have an inquiry made as to the patient's financial circumstances and as to financial circumstances of a relative of the patient who is legally responsible for the patient's support.

(b) On finding that the patient or a relative of the patient legally responsible for the patient's support can pay for all or any part of the care and treatment provided by the district, the administrator shall report that finding to the board, and the board shall issue an order directing the patient or the relative to pay the district a specified sum each week based on the individual's ability to pay.

(c) The administrator may collect money owed to the district from the estate of the patient or from that of a relative who was legally responsible for the patient's support in the manner provided by law for collection of expenses in the last illness of a deceased person.

(d) To the extent that a patient or a relative of the patient legally responsible for the patient's support cannot pay for care and treatment provided by the district, the district shall supply that care and treatment without charging the patient or the patient's relative.

(e) If there is a dispute relating to an individual's ability to pay or if the administrator has any doubt concerning an individual's ability to pay, the board shall call witnesses, hear and resolve the question, and issue a final order. An appeal from a final order of the board must be made to a district court in the county in which the district is located and the substantial evidence rule applies.

**SECTION 5.12. REIMBURSEMENT FOR SERVICES.** (a) The board shall require reimbursement from a county or a city located outside the boundaries of the district for the district's care and treatment of a sick, diseased, or injured person of that county or city.

(b) The board shall require reimbursement from the sheriff of Brewster County for the district's care and treatment of a person confined in a jail facility of Brewster County who is not a resident of the district.

(c) On behalf of the district, the board may contract with the state or federal government for the state or federal government to reimburse the district for treatment of a sick, diseased, or injured person.

**SECTION 5.13. SERVICE CONTRACTS.** The board may contract with a city, county, special district, or other political subdivision of the state or with a state or federal agency for the district to furnish a mobile emergency medical service or to provide for the investigatory or welfare needs of inhabitants of the district.

**SECTION 5.14. DONATIONS, GIFTS, AND ENDOWMENTS.** On behalf of the district, the board may accept donations, gifts, and endowments to be held in trust for any purpose and under any direction, limitation, or provision prescribed in writing by the donor that is consistent with the proper management of the district.

**SECTION 5.15. AUTHORITY TO SUE AND BE SUED.** The board may sue and be sued on behalf of the district.

#### ARTICLE 6. DISTRICT FINANCES

**SECTION 6.01. FISCAL YEAR.** (a) The district is operated on the basis of a fiscal year established by the board.

(b) The fiscal year may not be changed during a period that revenue bonds of the district are outstanding or more than once in a 24-month period.

**SECTION 6.02. ANNUAL AUDIT.** Annually, the board shall have an audit made of the financial condition of the district.

**SECTION 6.03. DISTRICT AUDIT AND RECORDS.** The annual audit and other district records shall be open to inspection during regular business hours at the principal office of the district.

**SECTION 6.04. ANNUAL BUDGET.** (a) The administrator of the district shall prepare a proposed annual budget for the district.

(b) The proposed budget must contain a complete financial statement, including a statement of:

- (1) the outstanding obligations of the district;
- (2) the amount of cash on hand to the credit of each fund of the district;
- (3) the amount of money received by the district from all sources during the previous year;
- (4) the amount of money available to the district from all sources during the ensuing year;
- (5) the amount of the balances expected at the end of the year in which the budget is being prepared;
- (6) the estimated amount of revenues and balances available to cover the proposed budget; and
- (7) the estimated tax rate that will be required.

**SECTION 6.05. NOTICE; HEARING; ADOPTION OF BUDGET.** (a) The board shall hold a public hearing on the proposed annual budget.

(b) The board shall publish notice of the hearing in a newspaper of general circulation in the district not later than the 10th day before the date of the hearing.

(c) Any resident of the district is entitled to be present and participate at the hearing.

(d) At the conclusion of the hearing, the board shall adopt a budget by acting on the budget proposed by the administrator. The board may make any changes in the proposed budget that in its judgment the interests of the taxpayers demand.

(e) The budget is effective only after adoption by the board.

**SECTION 6.06. AMENDING BUDGET.** After adoption, the annual budget may be amended on the board's approval.

**SECTION 6.07. LIMITATION ON EXPENDITURES.** Money may not be spent for an expense not included in the annual budget or an amendment to it.

**SECTION 6.08. SWORN STATEMENT.** As soon as practicable after the close of the fiscal year, the administrator shall prepare for the board a sworn statement of the amount of money that belongs to the district and an account of the disbursements of that money.

**SECTION 6.09. SPENDING AND INVESTMENT LIMITATIONS.** (a) Except as provided by Sections 5.07(a), 7.01, 7.04, and 7.05 of this Act, the district may not incur a debt payable from revenues of the district other than the revenues on hand or to be on hand in the current and immediately following fiscal year of the district.

(b) The board may not invest operating, depreciation, or building reserves in funds or securities other than those specified by Article 836 or 837, Revised Statutes.

**SECTION 6.10. DEPOSITORY.** (a) The board shall name at least one bank to serve as depository for district funds.

(b) District funds, other than those invested as provided by Section 6.09(b) of this Act and those transmitted to a bank of payment for bonds or obligations issued or assumed by the district, shall be deposited as received with the depository bank and must remain on deposit. This subsection does not limit the power of the board to place a portion of district's funds on time deposit or to purchase certificates of deposit.

(c) Before the district deposits funds in a bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation, the bank must execute a bond or other security in an amount sufficient to secure from loss the district funds that exceed the amount secured by the Federal Deposit Insurance Corporation.

## ARTICLE 7. BONDS

**SECTION 7.01. GENERAL OBLIGATION BONDS.** If authorized by an election, the board may issue and sell bonds in the name and on the faith and credit of the hospital district to:

- (1) purchase, construct, acquire, repair, or renovate buildings or improvements;
- (2) equip buildings or improvements for hospital purposes; or
- (3) acquire and operate a mobile emergency medical service.

**SECTION 7.02. TAXES TO PAY BONDS.** (a) At the time the bonds are issued by the district, the board shall levy a tax.

(b) The tax must be sufficient to create an interest and sinking fund to pay the principal of and interest on the bonds as they mature.

(c) In any year, the tax together with any other tax the district levies may not exceed the limit approved by the voters at the election authorizing the levy of taxes.

**SECTION 7.03. BOND ELECTION.** (a) The district may not issue general obligation bonds until the bonds are authorized by a majority of the qualified voters of the district.

(b) The board may order a bond election. The order calling the election must state the nature and date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds to be authorized, and the maximum maturity of the bonds.

(c) Notice of a bond election shall be given as provided by Article 704, Revised Statutes.

(d) The board shall canvass the returns and declare the results of the election.

**SECTION 7.04. REVENUE BONDS.** (a) The board may issue revenue bonds to:

- (1) purchase, construct, acquire, repair, equip, or renovate buildings or improvements for hospital purposes;
- (2) acquire sites to be used for hospital purposes; or
- (3) acquire and operate a mobile emergency medical service to assist the district in carrying out its hospital purposes.

(b) The bonds must be payable from and secured by a pledge of all or part of the revenues derived from the operation of the district's hospital system. The bonds may be additionally secured by a mortgage or deed of trust lien on all or part of district property.

(c) The bonds must be issued in the manner provided by Sections 8, 10, 11, 12, and 13, Chapter 122, Acts of the 58th Legislature, Regular Session, 1963 (Article 4494r, Vernon's Texas Civil Statutes), for issuance of revenue bonds by county hospital authorities.

**SECTION 7.05. REFUNDING BONDS.** (a) Refunding bonds of the district may be issued to refund and pay off an outstanding indebtedness the district has issued or assumed.

(b) The bonds must be issued in the manner provided by Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).

(c) The refunding bonds may be sold and the proceeds applied to the payment of outstanding indebtedness or may be exchanged in whole or in part for not less than a similar principal amount of outstanding indebtedness. If the refunding bonds are to be sold and the proceeds applied to the payment of outstanding indebtedness, the refunding bonds must be issued and payments made in the manner provided by Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes).

**SECTION 7.06. INTEREST AND MATURITY.** District bonds must mature not more than 50 years after the date of their issuance and must bear interest at a rate not to exceed that provided by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

**SECTION 7.07. EXECUTION OF BONDS.** The president of the board shall execute the bonds in the name of the district, and the secretary of the board shall countersign the bonds in

the manner provided by Chapter 204, Acts of the 57th Legislature, Regular Session, 1961 (Article 717j-1, Vernon's Texas Civil Statutes).

**SECTION 7.08. APPROVAL AND REGISTRATION OF BONDS.** (a) District bonds are subject to the same requirements with regard to approval by the attorney general and registration by the comptroller of public accounts as the law provides for approval and registration of bonds issued by counties.

(b) On approval by the attorney general and registration by the comptroller of public accounts, the bonds are incontestable for any cause.

**SECTION 7.09. BONDS AS INVESTMENTS.** District bonds and indebtedness assumed by the district are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

**SECTION 7.10. BONDS AS SECURITY FOR DEPOSITS.** District bonds are eligible to secure deposits of public funds of the state and of cities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their value if accompanied by all unmatured coupons.

**SECTION 7.11. TAX STATUS OF BONDS.** Since the district created under this Act is a public entity performing an essential public function, bonds issued by the district, any transaction relating to the bonds, and profits made in the sale of the bonds are free from taxation by the state or by any city, county, special district, or other political subdivision of the state.

#### ARTICLE 8. TAXES

**SECTION 8.01. LEVY OF TAXES.** (a) The board may annually levy taxes in an amount not to exceed the limit approved by the voters at the election authorizing the levy of taxes.

(b) The tax rate for all purposes may not exceed 75 cents on each \$100 valuation of all taxable property in the district.

(c) The taxes may be used to pay:

- (1) the indebtedness issued or assumed by the district; and
- (2) the maintenance and operating expenses of the district.

(d) The district may not levy taxes to pay the principal of or interest on revenue bonds issued under this Act.

**SECTION 8.02. BOARD AUTHORITY.** (a) The board may levy taxes for the entire year in which the district is created.

(b) The board shall levy taxes on all property in the district subject to hospital district taxation.

**SECTION 8.03. SETTING OF TAX RATE.** In setting the tax rate, the board shall take into consideration the income of the district from sources other than taxation. On determination of the amount of tax required to be levied, the board shall make the levy and certify it to the tax assessor-collector.

**SECTION 8.04. TAX ASSESSMENT AND COLLECTION.** (a) The Tax Code governs the appraisal, assessment, and collection of district taxes.

(b) The board shall contract for the assessment and collection of taxes as provided by the Tax Code.

#### ARTICLE 9. MISCELLANEOUS

**SECTION 9.01. LIMITATION ON STATE ASSISTANCE.** The state may not become obligated for the support or maintenance of a hospital district created under this Act, nor may the legislature make a direct appropriation for the construction, maintenance, or improvement of a facility of the district.



**SECTION 9.02. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 25, 1985, by the following vote: Yeas 143, Nays 0, 2 present, not voting; passed by the Senate on May 17, 1985, by the following vote: Yeas 30, Nays 0.

Approved: June 10, 1985

Effective: Immediately