

## CHAPTER 356

## H.B. No. 192

An Act relating to the authority of certain cities and their park boards to employ special park police officers and to acquire, construct, enlarge, improve, and manage parks, certain facilities, and other public improvements and to the financing of those improvements.

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

**SECTION 1.** Sections 1 and 7, Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6081g-1, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 1. (a) ~~In [The provisions of this Act are applicable to]~~ all home-rule cities having a population in excess of 40,000 according to the last preceding Federal census, ~~the~~ ~~The~~ Park Board of Trustees of any such city, as hereinafter defined and provided, may acquire by gift, devise, or purchase, or improve or enlarge lands or buildings to be used for public parks, playgrounds, or historical museums, or lands upon which are located historic buildings, sites, or landmarks of Statewide historical significance associated with historic events or personalities, or prehistoric ruins, burial grounds, archaeological, paleontological, or vertebrate paleontological sites, or sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological or historical buildings, markers, monuments, or other historical features, such lands to be situated in any locality in this State and in tracts of any size which are deemed suitable by such Park Board, situated within the State either within or without the boundary limits of such city, but within the limits of the county wherein such city lies.

(b) *The Park Board of Trustees of a home-rule city that borders on the Gulf of Mexico and that has a population of less than 80,000 according to the last preceding Federal census has all the powers granted to the Park Board of Trustees under Subsection (a) of this section and, in addition, may acquire by gift, devise, or purchase, or may construct, improve, or enlarge, lands or buildings to be used for public parks, playgrounds, or other facilities that serve the purpose of attracting visitors and tourists to the city. These lands are to be situated in any locality in this State and in tracts of any size which are deemed suitable by such Park Board, situated within the State either within or without the boundary limits of the city, but within the limits of the county in which the city lies.*

Sec. 7. In the ordinance establishing the original Board, the governing body of the city shall designate which particular parks and facilities then owned by the city shall be placed under the management and control of the Board and may designate additional parks and facilities by subsequent ordinances. ~~[In addition to the powers and authority herein granted, the Board shall have and exercise the following powers and authority:]~~

*In a home-rule city that borders the Gulf of Mexico and that has a population of less than 80,000 according to the last preceding Federal census, facilities that may be placed under the management and control of the Board include parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the city.*

*In addition to the powers and authority herein granted, the Board of any city covered by this Act shall have and exercise the following powers and authority:*

(a) *To improve, manage, operate, maintain, equip and finance any and all existing public parks and acquired facilities placed under its jurisdiction by the ordinance creating such Board and by subsequent ordinances;*

(b) *To improve, manage, operate, maintain, equip and finance additional parks and facilities acquired by gift, but not by the exercise of the power of eminent domain;*

(c) *To accept, receive and expend gifts of money or other things of value from any person, group of persons, corporation or association for the purpose of performing any function, power or authority herein invested in the Board;*

(d) *To advertise the city's recreational advantages for the purpose of attracting visitors, tourists, residents, and other users of the public facilities operated by the Board;*

(e) *To accept and receive from the city and to expend such funds as may be appropriated by the city from time to time for the purpose of improving, equipping, maintaining, operating and promoting recreational and other facilities under the Board's supervision and control;*

(f) *To enter into contracts, leases or other agreements connected with or incident to or in any manner affecting the financing, construction, equipping, maintaining, managing, or operating all facilities ~~[located or to be located on or pertaining to any park or parks]~~ under its control and to execute and perform its lawful powers and functions on lands leased from others;*

(g) To have general power and authority to make and enter into all contracts, leases and agreements with persons, associations and corporations relating to the management, operation and maintenance of any concession, facility, improvement, leasehold, lands or other property of any nature whatsoever over which such Board shall have jurisdiction and control; provided that the Board shall not enter into any such lease or agreement for the use of its properties by others for a longer term than forty (40) years;

(h) To adopt, promulgate and enforce all reasonable rules and regulations, *including rules establishing means of enforcing other rules, relating to ~~for~~ the use of parks and facilities under the jurisdiction and control of the Board by the public, as users, or by lessees, concessionaires and other persons or corporations carrying on any business activity within the area of such public parks and facilities;*

(i) To employ secretaries, stenographers, bookkeepers, accountants, technical experts, *municipal park and recreational patrolmen and security officers employed as special park police officers who shall be licensed as peace officers by the Texas Commission on Law Enforcement Officer Standards and Education, unarmed security guards, parking attendants, and such other agents and employees, permanent or temporary, as it may require, and shall determine their qualifications, duties and compensation. Any special park police officer duly appointed and commissioned by the Board under this Act may make arrests or perform any other service or duty which may be performed by any sheriff, constable, or other duly constituted peace officer of the state in enforcing the laws of this state, the ordinances of the city, the ordinances of the county and the rules and regulations of the Board applicable to the use of municipal parks and facilities under the jurisdiction and control of the Board.* In addition, the Board may also employ and compensate a manager for any park or parks or facilities and may give him full authority in the management and operation of the park or parks or facilities subject only to the direction and orders of the Board. For such legal services as it may require the Board may call upon the city attorney of such city and in lieu thereof or in addition thereto the Board may employ and compensate its own counsel and legal staff. The Board shall adopt a seal which shall be placed on all leases, deeds and other instruments which are usually executed under seal, and on such other instruments as may be required by the Board;

(j) To sue and be sued in its own name;

(k) To issue revenue bonds in the name of the Board which shall be payable solely from, *and secured by a pledge of, the revenues of all or any designated part or parts of the properties or facilities under the jurisdiction and control of the Board and/or other revenues of the Board including any revenues from an occupancy tax on hotel rooms, contracts, leases, or other agreements, for the purpose of acquiring, constructing, improving or enlarging lands, buildings, facilities, or historically significant objects for any statutory purpose or to further a statutory power of the Board [park purposes or for historic or prehistoric preservation purposes].* Such bonds may be issued in one or more installments or series by resolutions adopted by the Board without the necessity of an election, shall bear interest at *any rate or rates and shall be sold at any price or prices provided that the net effective interest rate does not [a rate not to]* exceed the maximum now or hereafter permitted by law, shall mature serially or otherwise within forty (40) years from their date or dates, shall be sold by the Board *at public or private sale on the best terms obtainable [but for not less than par and accrued interest],* shall be executed by the chairman and secretary of the Board in the manner provided for the execution of bonds issued by incorporated cities, shall not be delivered until a transcript of the proceedings authorizing their issuance has been submitted to the Attorney General of Texas and by him approved as to legality and the bonds registered by the Comptroller of Public Accounts of the State of Texas, which approval by the Attorney General of Texas shall render such bonds incontestable except for fraud, and shall be issued upon such terms and conditions in regard to the security, manner, place and time of payment, pledge of designated revenue, redemption before maturity, and the issuance of additional parity or junior lien bonds as the Board shall specify in the resolution or resolutions authorizing the issuance of such bonds; provided that, except as herein otherwise provided, the provisions of Articles 1111 through 1118, Vernon's Texas Civil Statutes, together with all additions and amendments thereof as found in Chapter 10, Title 28, Vernon's Texas Civil Statutes, shall apply to the issuance of revenue bonds hereunder. All bonds issued under the provisions of this Act shall be, and are hereby declared to be, and to have all the qualifications of, negotiable instruments and investment securities governed by Chapter 8, Uniform Commercial Code *[under the Negotiable Instruments Law of the State of Texas],* and all such bonds shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political

corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto.

(l) The Board shall not have the power or authority to issue any bonds payable in whole or in part from ad valorem taxes but shall be authorized to receive and expend the proceeds of any bonds payable from taxes which may be issued by the governing body of the city for park purposes after the same have been authorized at an election held in the manner required by law;

(m) To issue refunding bonds for the purpose of refunding one or more series or installments of original or refunding revenue bonds of the Board outstanding which refunding bonds shall be issued, approved as to legality by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, in the manner and upon the terms and conditions prescribed for the issuance of original revenue bonds herein, such refunding bonds to bear interest at a rate or rates not exceeding that herein provided for original bonds.

**SECTION 2.** Subsections (a), (c), (e), and (f), Section 3f, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) In this section, "eligible coastal city" means a home-rule city that borders on the Gulf of Mexico and that has a population of less than 80,000 [~~75,000~~], according to the most recent federal census. The definitions contained in Section 3d of this Act apply to this section.

(c) A city that levies and collects an occupancy tax authorized by this section at a rate of seven percent or more must [~~may~~] pledge a portion of the revenue equal to at least [~~not more than~~] one percent of the cost of the occupancy of hotel rooms to either or both of the following purposes:

(1) the payment of the bonds that the city or a Park Board of Trustees may issue under Section 3 of this Act or under Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6081g-1, Vernon's Texas Civil Statutes), in order to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair of any or all public improvements, including but not limited to parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the city; or

(2) the maintenance, improvement, or operation of the parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the city [~~the payment of the bonds which the city may issue pursuant to the provisions of Section 3 of this Act~~].

The city and/or Park Board of Trustees is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as parks, civic centers, civic center buildings, auditoriums, exhibition halls, [~~and~~] coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the city and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease under this subsection shall be on the terms and conditions the city and/or Park Board of Trustees deems appropriate.

(e) If the tax authorized by this section is levied by the city at a rate of five percent or more, an amount of revenue equal to at least one percent of the cost of the occupancy of hotel rooms shall be reserved for beach patrol, lifeguard services, [~~and~~] marine water safety, and park law enforcement [~~under the provisions of Senate Bill 713, Acts of the 67th Legislature, Regular Session, 1981~~].

(f) If the tax authorized by this section is levied by the city at a rate of six percent or more, an amount of revenue equal to at least one percent of the cost of occupancy of hotel rooms shall be reserved for public beach cleaning funds including but not limited to [~~for~~] use as matching funds for state funds available to clean and maintain public beaches.

**SECTION 3.** This Act takes effect September 1, 1985.

**SECTION 4.** 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.

Passed by the House on April 4, 1985, by a non-record vote; passed by the Senate on May 15, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 10, 1985

Effective: September 1, 1985