

CHAPTER 1039

H.B. No. 2509

AN ACT

relating to the operation of a park and recreation district in certain counties.

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

SECTION 1. The heading to Chapter 324, Local Government Code, is amended to read as follows:

CHAPTER 324. PARK AND RECREATION DISTRICT AND
PARK BONDS: COUNTIES WITH FRONTAGE ON
GUADALUPE AND COMAL RIVERS

SECTION 2. Sections 324.002(1) and (5), Local Government Code, are amended to read as follows:

(1) "District" means a park *and recreation* district created under this chapter.

(5) "District facility" includes any facility, *land, or improvement to land, whether permanent or temporary, that is owned, [or] leased, or acquired* by the district.

SECTION 3. The heading to Subchapter B, Chapter 324, Local Government Code, is amended to read as follows:

SUBCHAPTER B. CREATION OF PARK AND RECREATION DISTRICT

SECTION 4. The heading to Subchapter C, Chapter 324, Local Government Code, is amended to read as follows:

SUBCHAPTER C. BOARD OF DIRECTORS OF
PARK AND RECREATION DISTRICT

SECTION 5. Section 324.042(a), Local Government Code, is amended to read as follows:

(a) Within 30 [15] days after the date a board member is appointed, the member must qualify by taking the official oath and by filing a good and sufficient bond with the county clerk.

SECTION 6. Section 324.043, Local Government Code, is amended to read as follows:

Sec. 324.043. *COMPENSATION AND REIMBURSEMENT.* A board member is *not* entitled to *compensation but is entitled to* reimbursement for necessary expenses, including travel expenses, incurred in performing the duties of a board member. A board member's reimbursement for necessary expenses, in excess of \$250, shall be approved by the commissioners court. A board member's approved expense account shall be paid in due time by the board's check or warrant.

SECTION 7. Section 324.046(b), Local Government Code, is amended to read as follows:

(b) The offices of secretary and treasurer may be held by the same person. If either the secretary or the treasurer is absent or unavailable, the *president [other officer]* may *appoint another board member to act for and perform the duties of the absent or unavailable officer.*

SECTION 8. Section 324.061(a), Local Government Code, is amended to read as follows:

(a) Money *and other funds* belonging to or under control of the board *are public [shall be deposited and secured in the manner prescribed by law for county] funds.*

SECTION 9. Section 324.062, Local Government Code, is amended to read as follows:

Sec. 324.062. *PERSONNEL.* (a) The board may employ *managers*, secretaries, stenographers, bookkeepers, accountants, technical experts, and other permanent or temporary agents and employees it requires.

(b) The board shall determine the qualifications and *set the* duties of employees.

(c) ~~The board may employ and compensate a manager for one or more parks or facilities and may give the manager full authority in the management and operation of the parks subject only to the direction and orders of the board that are effective under Section 324.045(b).~~

~~[(d)] The board may call on the county attorney for the legal services it requires. In addition, or in the alternative, the board may contract for and compensate its own legal staff.~~

SECTION 10. Section 324.064(b), Local Government Code, is amended to read as follows:

(b) If the contract is for less than \$10,000 ~~[\$5,000]~~, the board may enter into the contract without advertisement. If the contract is for \$10,000 ~~[\$5,000]~~ or more, the contract is subject to the bidding provisions for contracts applicable to the county.

SECTION 11. Section 324.066, Local Government Code, is amended to read as follows:

Sec. 324.066. *DISTRICT RULES AND ORDINANCES; CRIMINAL PENALTY; CIVIL ENFORCEMENT.* (a) The board may adopt reasonable rules *and ordinances* applicable to:

(1) ~~tenants, concessionaires, and users of property managed by the district;~~

~~(2) recreational activities in a park or district facility, including hunting, fishing, boating, and camping;~~

~~(3) any other recreational or business privileges in a park or district facility;~~

~~[(4) the possession of glass beverage containers on property managed by the district and public water in the district;~~

~~[(5) subject to the public's paramount right to navigate inland water, activities that endanger the health or safety of persons or property on public water in the district;~~

~~[(6) littering and the prevention of littering, as defined by the board, of the public water and public roads in the district and of property managed by the district; and~~

~~[(7)] the administration, enforcement, and collection of district taxes and the issuance, suspension, and cancellation of revenue permits;~~

(2) *littering and litter abatement on the public water in the district, including the possession and disposition of glass containers;*

(3) *activities that endanger the health and safety of persons or property on public water in the district, subject to the public's paramount right to navigate inland water; and*

(4) *tenants, business privileges, concessionaires, users, and activities affecting district property and facilities, including hunting, fishing, boating, camping, tubing, swimming, and conservation of natural resources.*

~~(b) [The board may contract with law enforcement officers and attorneys to enforce its rules.~~

~~(c) A police officer, constable, sheriff, or other law enforcement officer with jurisdiction in the county may arrest persons violating rules or ordinances of the board, [serve warrants on persons accused of violating an ordinance of the board,] and carry out the prosecution of those persons in the proper court.~~

~~(d) [(d)] A person who violates a rule or ordinance adopted under this section commits an offense. An offense under this section is a Class C misdemeanor.~~

~~(e) [(e)] The county attorney or an attorney retained by the board for this purpose may bring an action to enjoin a violation of board rules or ordinances, and if the board authorizes, may seek damages and attorney's fees based on the violation, if the violation involves:~~

~~(1) the providing or offering of a service or the use or rental of a facility or an item for remuneration by a person who does not hold a revenue permit issued by the district or for which collection of a tax is required;~~

~~(2) failure of a revenue permit holder to remit a tax imposed and the tax has been due for more than 60 days; or~~

~~(3) violation by a revenue permit holder of a district rule relating to an activity that endangers the health or safety of a person or property in the district. [For the purposes of this section, "property managed by the district" includes property owned by the district, property leased by the district, and other public and private property managed by the district pursuant to an agreement with the property owner.]~~

SECTION 12. Section 324.070, Local Government Code, is amended to read as follows:

Sec. 324.070. COOPERATION WITH OTHER PUBLIC AUTHORITIES. Under an agreement with a public authority in control of parkland in the county, ~~[inside or outside the park district,]~~ the district may assume control of all or part of the parkland *within the district or contiguous to the district* or may contract or cooperate with the public authority in connection with the use, development, improvement, and protection of the parkland. ~~[The board may not acquire or control any park, parkland, parkway, playground, other land, or boulevard owned or controlled by a public authority other than the county or the district except as provided by this section.]~~

SECTION 13. Section 324.072, Local Government Code, is amended to read as follows:

Sec. 324.072. PLAN FOR DEVELOPMENT OF PARKS; ANNUAL BUDGET; FILING. (a) *The board shall develop and approve a three-year master plan for capital development and the development of parks and district facilities.*

(b) The board shall annually review and revise the master plan during the budget process and shall file a copy of the master plan and revisions with the county clerk.

(c) The board shall annually develop and approve a one-year budget that must include the suggested revisions and additions to the master plan.

~~(d) The board shall submit the annual budget to the commissioners court for approval and shall file a copy with the county clerk [Within 18 months after the date of the creation of a district, the board shall develop and approve a written one-year plan and a written five year master plan for all capital development and the development of parks in the district. Subsequently, each year the board shall submit a one-year plan to the commissioners court for approval and at least every five years shall revise the five-year plan and submit it to the commissioners court for approval].~~

SECTION 14. Section 324.095, Local Government Code, is amended to read as follows:

Sec. 324.095. PERMANENT IMPROVEMENTS ON LAND WITH RIVER FRONTAGE. (a) Through revenue bonds or any other revenue sources, the district may not purchase a river access location *except for use as a:*

~~(1) [that exceeds five acres or a permanent park improvement at a river access location other than a] sanitary facility;~~

~~(2)[,] litter receptacle;~~

~~(3)[,] drinking water facility;~~

- (4)[,] parking lot;
- (5)[,] road or trail;
- (6)[, ~~or~~] river ingress or egress facility;
- (7) information booth; or
- (8) tax collection facility.

(b) At a river access location permitted under this section, the district may not engage in any activity that competes with private enterprise except the provision and operation of a permanent improvement permitted under this section.

(c) *Subject to the restrictions provided by Section 324.067(d), the district may accept as a grant, gratuity, gift, or devise land with river access and any improvement that may exist on the land at the time of the gift.*

SECTION 15. Section 324.097(c), Local Government Code, is amended to read as follows:

(c) At the time the financial statement is filed, the board shall file with the commissioners court a proposed budget of its needs for the next fiscal year. The proposed budget shall include ~~[only]~~ items that:

- (1) the board is unable to finance from the district's revenues, including revenues from facilities of which the income is pledged to revenue bonds; and
- (2) the board requests purchase of with county funds.

SECTION 16. Sections 324.099(b), (c), (g), and (i), Local Government Code, are amended to read as follows:

(b) The taxes that a district may levy apply only within the district and are:

(1) a tax on the price paid for a camping or picnic space or river ingress or egress privileges, at a rate not greater than five percent established by *resolution* of the board, imposed on each person who, under a lease, concession, permit, right of access, license, contract, or agreement pays for the use or possession of a camping or picnic space or for river ingress or egress privileges costing at least \$1 each day;

(2) a tax imposed by resolution of the board at a rate not greater than four percent on the cost of occupancy of a hotel if the cost of occupancy is \$2 or more each day; a tax is not imposed if the accommodations are leased or contracted to one party for at least 30 consecutive days; and

(3) a tax imposed by resolution of the board at a rate not greater than five percent on the price paid for recreational guide or shuttle services or on the rental of any parking space and any water-oriented recreational equipment, including a canoe, tube, raft, boat, or sailing craft intended for use on public inland water in the district; boat slips; fishing tackle; and life jackets.

(c) The taxes imposed under this section are payable ~~[only]~~ by the purchaser or consumer of the items subject to the tax *except that if the person responsible for collecting the tax does not comply with this chapter by collecting and remitting the tax to the district, the person responsible for collecting the tax is liable for the tax.*

(g) If a revenue permit holder does not collect and remit a tax imposed, the board may suspend, *revoke*, or cancel the holder's revenue permit *in addition to any other remedy the district may have to collect the tax under civil or criminal law.*

(i) In the same manner that this section applies to a person who provides or offers a service, a use of a facility, or a rental of an item in the district, this section applies to a person who *resides or does business* ~~[in the county but]~~ outside the district *but* provides or offers recreational guide or shuttle services or the rental of water-oriented recreational equipment and the person regularly transports customers into the district for river access *while the person is in the district.*

SECTION 17. Section 324.100, Local Government Code, is amended to read as follows:

Sec. 324.100. DISPOSITION OF REVENUE. In addition to any other purpose or obligation of a district, a district may use its tax revenue and other revenue for:

- (1) acquisition of a right-of-way that leads to or is in the district;

- (2) construction, improvement, or maintenance of a road that leads to or is in the district;
- (3) provision of law enforcement, emergency medical services, or fire protection in the district;
- (4) programs to improve the water quality and sanitary conditions in the district;
- (5) other programs that promote water-oriented recreation in the district;
- (6) contribution to the county's general fund in the event that the board finds it has excess revenues;
- (7) payment of indebtedness for bonds issued under Sections 324.091 and 324.092;
- (8) *acquiring insurance for the district;*
- (9) *hiring necessary personnel as provided by Section 324.062;* and
- (10) [~~8~~] any other lawful purpose for the benefit of the district.

SECTION 18. 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 30, 1993: Yeas 128, Nays 0, 2 present, not voting; the House concurred in Senate amendments to H.B. No. 2509 on May 28, 1993, by a non-record vote; passed by the Senate, with amendments, on May 26, 1993: Yeas 30, Nays 0.

Filed without signature June 19, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.