

CHAPTER 9

S.B. No. 501

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Polk County Hospital District; authorizing a tax; and granting the authority to issue bonds.

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 Polk 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 Polk County Hospital District may be created and established and, if created, shall be maintained, operated, and financed in accordance with the provisions of Article IX, Section 9, of the Texas Constitution, this Act, and other laws relating to hospital districts created under Article IX, Section 9, of the Texas Constitution.

SECTION 1.03. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Polk County, Texas.

ARTICLE 2. TEMPORARY DIRECTORS

SECTION 2.01. TEMPORARY DIRECTORS. (a) On the effective date of this Act, the following persons are hereby appointed to the board and shall be temporary directors of the district:

- (1) Duane Adams;
- (2) Doyle Chandler;
- (3) Howard Daniel, Jr.;
- (4) Floyd Dickens; and
- (5) H. E. Striedel.

(b) The temporary directors may exercise all authority required to organize, call, and hold an election under Article 3 of this Act.

SECTION 2.02. VACANCY IN OFFICE. The directors remaining after a vacancy in the office of temporary director shall fill the vacancy by appointment by majority vote.

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. (a) A majority of the temporary directors may order an election to be held on the creation of the district.

(b) On presentation of a petition for an election on the creation of the district signed by at least 20 registered voters residing in the boundaries of the proposed district, according to the most recent official lists of registered voters, the temporary directors shall order an election to be held. The election shall be called not later than the 60th day after the date the petition is filed with the temporary directors.

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

- (1) the date of the election;
- (2) the nature of the election, including the proposition that is to appear on the ballot;
- (3) the maximum tax rate to be voted on at the election, which may not exceed 75 cents on the \$100 valuation of all taxable property in the district;
- (4) the hours during which the polls will be open;
- (5) the number of election precincts to be used in the election;
- (6) the polling place for each election precinct;
- (7) the presiding judge and alternate presiding judge appointed to serve at each polling place; and
- (8) the names of the officers and the location where early voting will be conducted for the election and the hours for early voting during the early voting period.

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 Polk County once a week for two consecutive weeks. The first publication of the notice 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 45 days nor more than 60 days after the date on which the election is ordered.

(b) Subsection (a), Section 41.001, Election Code, and its subsequent amendments, does not apply to an election ordered under this article.

SECTION 3.06. BALLOT PROPOSITION. The ballot for an election on the creation of the district shall be printed to permit voting for or against the proposition: "The creation of Polk County Hospital District and the levy of annual taxes for hospital purposes at a rate not to exceed _____ (insert the amount prescribed by the election order, not to exceed 75 cents) on each \$100 valuation of all taxable property in the district."

SECTION 3.07. CANVASSING RETURNS. The temporary directors of the district shall meet and canvass the returns of the election and, if a majority of voters voting at the election votes in favor of the creation of the district, the temporary directors shall pass an order declaring the district created.

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.

SECTION 3.09. BOND PROPOSITION AT CREATION ELECTION. (a) A petition for an election on the creation of the district under Subsection (b) of Section 3.02 of this Act may request that a separate proposition be submitted at the election to determine whether the board may issue district bonds if the district is created. The petition must specify the maximum amount of bonds to be issued and their maximum maturity date.

(b) Even though a petition does not request submission of a proposition on whether the board may issue bonds or even though the temporary directors have called the election on the creation of the district on their own motion under Subsection (a) of Section 3.02 of this Act, the temporary directors may submit a separate proposition at the election on the issuance of bonds.

(c) If a bond proposition is submitted to the voters, the proposition to appear on the ballot shall be printed to permit voting for or against the proposition: "The issuance of bonds for the purposes of the Polk County Hospital District, if created, in an amount not to exceed \$_____ (insert amount) and to mature not later than _____ (insert date)."

(d) The board may issue bonds as provided by this Act if the district is created and if a majority of the votes cast at the election favor the proposition to issue the bonds.

SECTION 3.10. EARLY VOTING CLERK. The county clerk shall serve as the early voting clerk for an election under this article.

ARTICLE 4. DISTRICT ADMINISTRATION

SECTION 4.01. BOARD OF DIRECTORS. (a) The district shall be 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 shall 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 May following the creation of the district.

SECTION 4.03. METHOD OF ELECTION; STAGGERED TERMS; TERM OF OFFICE; ELECTION DATE. (a) The temporary directors shall establish four precincts from which directors are elected. The precincts must be contiguous and substantially equal in population according to the most recent federal decennial census.

(b) One director shall be elected from each precinct, and one director shall be elected from the county at large.

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

(d) At the initial election, the candidates elected from odd-numbered precincts and the candidate elected at large shall serve for a term of two years, and the candidates elected from the even-numbered precincts at that election shall serve for a term of one year.

(e) After the initial election of directors, an election shall be held on the first Saturday in May 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 the person's name printed on the ballot as a candidate for director must file with the secretary of the board an application and a petition signed by at least 10 registered voters of the district asking that the person's name be placed on the ballot. The determination of whether a person is a registered voter of the district shall be based on the most recent official lists of registered voters.

(b) The application must specify the 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 a resident of the district.

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

SECTION 4.07. BOARD VACANCY. A vacancy in the office of director shall be filled for the unexpired term by appointment by the remaining directors.

SECTION 4.08. 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 4.09. OFFICERS' TERMS; VACANCY. (a) Each officer of the board serves for a term of one year.

(b) The board shall fill a vacancy in a board office for an unexpired term.

SECTION 4.10. 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 record and must be approved by the board.

SECTION 4.11. 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 4.12. PERSONNEL OF DISTRICT. (a) The board may appoint personnel as it considers necessary and appropriate and shall establish their general duties. Personnel may include:

- (1) an administrator and assistant administrator; and
- (2) one or more:
 - (A) attorneys;
 - (B) doctors in either permanent or temporary capacities;
 - (C) technicians;
 - (D) nurses;
 - (E) fiscal agents or accountants; and
 - (F) architects.

(b) In addition to an appointment authorized under Subsection (a) of this section or instead of an appointment, the board may assign duties as it considers appropriate to an organization whose purpose is to run the administrative operations of the district.

SECTION 4.13. RETIREMENT BENEFITS. The board may adopt any retirement plan for its employees authorized by law.

ARTICLE 5. POWERS AND DUTIES

SECTION 5.01. RESPONSIBILITY OF AND LIMITATION ON GOVERNMENTAL ENTITY. (a) As soon as possible following creation of the district, Polk County shall prepare a full and complete inventory of all hospital property, equipment, and supplies owned by the county and shall cause to be transferred or conveyed to the district:

- (1) title to all lands, buildings, improvements, and equipment related to the county's hospital;
- (2) operating funds and reserves for operating expenses and funds that have been budgeted by Polk County to provide medical care for the residents of the county for the remainder of the fiscal year in which the district is established;
- (3) taxes collected by Polk County for hospital purposes for the year in which the district is created; and
- (4) funds established for the payment of county indebtedness assumed by the district.

(b) On or after creation of the district, Polk 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 Polk County for hospital care and treatment 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; OPERATING AND MANAGEMENT CONTRACTS. (a) The board shall manage, control, and administer the hospital system and the funds and resources of the district.

(b) The board may enter into operating or management contracts relating to hospital facilities on behalf of the district.

SECTION 5.04. RULES, PROCEDURES, AND CONSTRUCTION CONTRACTS. (a) The board may adopt rules governing the operation of the hospital and hospital system and the duties, functions, and responsibilities of the district staff and employees.

(b) The board may prescribe the method of making purchases and expenditures by and for the district and may establish accounting and control procedures for the district.

(c) The board may enter into construction contracts on behalf of the district. Subchapter B, Chapter 271, Local Government Code, and its subsequent amendments, applies and requires competitive bidding for the letting of construction contracts in excess of the amount specified by Section 271.024 of that subchapter, and its subsequent amendments. Article 5160, Revised Statutes, and its subsequent amendments, as it relates to performance and payment bonds, applies to construction contracts let by the district.

SECTION 5.05. 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 either by lease or by purchase 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 5.06. 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 and electric distribution, 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 5.07. INDIGENT CARE. (a) The district shall, without charge, supply to a patient residing in the district the care and treatment that the patient or a relative of the patient who is legally responsible for the patient's support cannot pay.

(b) Not later than the beginning of each operating year, the district shall adopt an application procedure to determine eligibility for assistance as provided by Section 61.053, Health and Safety Code, and its subsequent amendments.

(c) The administrator of the district may have an inquiry made into the financial circumstances of any patient residing in the district and admitted to a district facility and into the financial circumstances of a relative of the patient who is legally responsible for the patient's support.

(d) 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 each week a specified amount that the individual is able to pay.

(e) 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.

(f) 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 Polk County, and the substantial evidence rule applies.

SECTION 5.08. REIMBURSEMENT FOR SERVICES. (a) The board shall require reimbursement from a county or from a public hospital 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 public hospital as provided by Sections 61.033 and 61.060, Health and Safety Code, and any subsequent amendments.

(b) The board shall require reimbursement from the sheriff or police chief of Polk County or any city within its boundaries for the district's care and treatment of a person confined in any of their jail facilities who is not a resident of the district.

(c) 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 5.09. 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 5.10. GIFTS AND ENDOWMENTS. On behalf of the district, the board may accept 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 5.11. 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. The district operates on the fiscal year adopted by the board.

SECTION 6.02. ANNUAL AUDIT. The board annually 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 are 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 with 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 interest of the taxpayers demands.

(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. INVESTMENT LIMITATIONS. Funds of the district may be invested in obligations and in accordance with the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), and its subsequent amendments, and policies of the board of directors.

SECTION 6.10. DEPOSITORY. (a) The board shall select a depository under the same laws that govern the selection of a depository by a county of this state.

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

(c) Before the district deposits funds in its depository in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation, the depository 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.

SECTION 6.11. ALTERNATE MEANS OF FINANCING. In addition to the other methods of financing provided by this Act, the district may:

(1) issue short-term obligations of the district and execute corresponding credit agreements in the manner provided by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), and its subsequent amendments;

(2) issue warrants or notes drawn against the current revenues of the district for the payment of current expenses in the manner provided by Article 1264, Revised Statutes, and its subsequent amendments;

(3) issue promissory notes secured by anticipated tax receipts; and

(4) issue promissory notes secured by the anticipated sale of bonds.

ARTICLE 7. BONDS

SECTION 7.01. GENERAL OBLIGATION BONDS. The board may issue and sell general obligation bonds of the district to:

(1) purchase, construct, acquire, repair, or renovate buildings or improvements;

(2) equip buildings or improvements for hospital purposes; and

(3) acquire and operate a mobile emergency medical service.

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

(b) The tax shall be annually assessed and collected in amounts sufficient 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 issue general obligation bonds for the purposes stated in Section 7.01 of this Act only if the bonds are authorized by a majority of the qualified voters of the district voting on the matter of issuing the bonds at the creation election or at an election called and held for that purpose.

(b) The board may order a bond election after the district is created. 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, and its subsequent amendments.

(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; and

(3) acquire and operate a mobile emergency medical service to assist the district in carrying out its hospital purposes.

(b) The bonds may 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 the district's property.

(c) The revenue bonds shall be issued in accordance with the provisions of Chapter 264, Health and Safety Code, and its subsequent amendments, relating to the 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 refunding bonds must be issued in the manner provided by Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes); or Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), and any subsequent amendments.

(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 as authorized by the statute under which they are issued.

SECTION 7.06. BOND PROCEDURES ACT. To the extent not inconsistent with other provisions governing the issuance of bonds under this Act, the district's bonds will be issued in the manner and form required by the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and its subsequent amendments.

SECTION 7.07. BONDS AS INVESTMENTS. District bonds and indebtedness assumed by the district are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and 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 7.08. 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 par value.

SECTION 7.09. 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 impose property 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 that authorized by the voters at an election held for that purpose.

(c) The taxes may be used to pay for indebtedness issued or assumed by the district, for maintenance and operating expenses of the district, and for any other purpose authorized by the voters at the election held for that purpose.

(d) The district may not impose taxes to pay the principal of or interest on revenue bonds.

SECTION 8.02. BOARD AUTHORITY. The board may impose taxes for the entire year in which the district is created.

SECTION 8.03. ADOPTING TAX RATE. In adopting the tax rate, the board shall consider the income of the district from sources other than taxation. After determining the amount of tax 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, and its subsequent amendments, governs the appraisal, assessment, and collection of district taxes.

(b) The board may provide for the appointment of a tax assessor-collector for the district or may contract for the assessment and collection of taxes as provided by the Tax Code and its subsequent amendments.

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 the Senate on March 4, 1993: Yeas 30, Nays 0; the Senate concurred in House amendment on March 15, 1993: Yeas 30, Nays 0; passed the House, with amendment, on March 15, 1993: Yeas 129, Nays 0, two present not voting.

Approved March 17, 1993.

Effective March 17, 1993.