

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE C. LOCAL HOSPITALS

CHAPTER 264. COUNTY HOSPITAL AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 264.001. SHORT TITLE. This chapter may be cited as the County Hospital Authority Act.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.002. DEFINITIONS. In this chapter:

(1) "Authority" means a county hospital authority created under this chapter.

(2) "Board" means the board of directors of an authority.

(3) "Bond" includes a note.

(4) "Bond resolution" means the resolution authorizing the issuance of revenue bonds.

(5) "Hospital" means a hospital project as defined under Section 223.002.

(6) "Trust indenture" means the mortgage, deed of trust, or other instrument pledging revenues of or creating a mortgage lien on properties to secure revenue bonds issued by an authority.

(7) "Trustee" means the trustee under a trust indenture.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.003. CREATION. (a) The commissioners court of a county by order may create a county hospital authority and designate the name of the authority if the commissioners court finds that creation of the authority is in the best interest of the county and its residents.

(b) The authority is composed only of the territory in the county.

(c) The authority is a body politic and corporate and a

political subdivision of the state.

(d) The authority does not have taxing power.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 264.011. BOARD OF DIRECTORS. (a) The authority is governed by a board of directors with at least seven and not more than 11 members.

(b) The number of directors shall be determined at the time the authority is created. The number may be changed by amendment of the order creating the authority unless prohibited by the resolution authorizing the issuance of bonds or by the trust indenture securing the bonds. However, a reduction in the number of directors may not shorten the term of an incumbent director.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

#### Sec. 264.012. APPOINTMENT OF BOARD; TERMS OF OFFICE.

(a) The commissioners court shall appoint the directors of the authority for terms not to exceed three years except as otherwise provided by this section.

(b) The resolution authorizing the issuance of revenue bonds or the trust indenture securing the bonds may prescribe the method of selecting a majority of the directors and the term of office of those directors, and the terms of directors appointed before the issuance of the bonds are subject to the resolution or trust indenture. The commissioners court shall appoint the remaining directors.

(c) The trust indenture may provide that in the event of a default, as defined in the trust indenture, the trustee may appoint all directors. On that appointment, the terms of the directors in office terminate.

(d) If the authority purchases an existing hospital or a hospital under construction from a nonprofit corporation, the directors shall be determined as provided in the contract of purchase.

(e) An officer or employee of the county is not eligible for appointment as a director.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.013. OFFICERS. (a) The board shall elect:

(1) a president and a vice-president, who must be directors;

(2) a secretary and a treasurer, who are not required to be directors; and

(3) any other officers authorized by the authority's bylaws.

(b) The offices of secretary and treasurer may be combined.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.014. AUTHORITY OF BOARD. (a) Action may be taken by a majority of the directors present if a quorum is present.

(b) The president has the same right to vote as other directors.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.015. COMPENSATION. A director may not receive compensation for services but is entitled to reimbursement for expenses incurred in performing services.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 264.021. GENERAL POWERS. (a) The authority has the power of perpetual succession.

(b) The authority may:

(1) have a seal;

(2) sue and be sued; and

(3) make, amend, and repeal its bylaws.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.022. ACQUISITION, OPERATION, AND LEASE OF HOSPITALS. (a) The authority may construct, purchase, enlarge, furnish, or equip one or more hospitals located in the county.

(b) The authority may operate and maintain one or more hospitals. The authority shall operate a hospital without the

intervention of private profit for the use and benefit of the public unless the authority leases the hospital.

(c) The board may lease a hospital or part of a hospital owned by the authority for operation by the lessee as a hospital under terms that are satisfactory to the board and the lessee. The lease must:

- (1) be authorized by resolution of the board;
- (2) be executed on behalf of the authority by the president and secretary of the board; and
- (3) have the seal of the authority impressed on the lease.

(d) The bond resolution or trust indenture may prescribe procedures and policies for the operation of a hospital. If a hospital is used, operated, or acquired by a nonprofit corporation or is leased, the authority may delegate to the nonprofit corporation or lessee the duty to establish the procedures and policies.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.023. EMPLOYEES. (a) The board may employ a manager or executive director of a hospital and other employees, experts, and agents.

(b) The board may delegate to the manager or executive director the power to manage the hospital and to employ and discharge employees.

(c) The board may employ legal counsel.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.024. MANAGEMENT AGREEMENT. (a) The board may enter into an agreement with any person for the management or operation of a hospital or part of a hospital owned by the authority under terms that are satisfactory to the board and the contracting party.

(b) The agreement must:

- (1) be authorized by resolution of the board;
- (2) be executed on behalf of the authority by the president and secretary of the board; and

(3) have the seal of the authority impressed on the agreement.

(c) The board may delegate to the manager the power to manage the hospital and to employ and discharge employees.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.025. COMMITTEES. (a) The board, by a resolution adopted by a majority of the directors in office, may designate one or more committees if authorized to do so by the authority's bylaws.

(b) At least two directors must serve on each committee. Each committee may have additional nonvoting members who are not directors if authorized by the resolution or the bylaws.

(c) A committee may exercise the board's power to manage the authority to the extent and in the manner provided by the resolution or the bylaws. However, the board may not delegate to a committee the power to:

(1) issue bonds;

(2) make or amend a lease of a hospital or a management agreement relating to a hospital; or

(3) employ or discharge a manager or executive director.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.026. RATES FOR HOSPITAL SERVICES. (a) Except as provided by Subsection (b), through charging sufficient rates for services provided by a hospital and through its other revenue sources, the board shall produce revenue sufficient to:

(1) pay the expenses of owning, operating, and maintaining the hospital;

(2) pay the interest on the bonds as it becomes due;

(3) create a sinking fund to pay the bonds as they become due; and

(4) create and maintain a bond reserve fund and other funds as provided in the bond resolution or trust indenture.

(b) If the hospital is used, operated, or acquired by a nonprofit corporation under Chapter 223 or is leased, the board shall require the nonprofit corporation or the lessee to charge

rates for services provided by the hospital that are sufficient, with the nonprofit corporation's or lessee's other sources of revenue, to:

(1) pay the expenses of operating and maintaining the hospital; and

(2) make payments or pay rentals to the authority that are sufficient, with the authority's other pledged sources of estimated revenue, to:

(A) pay the interest on the bonds as it becomes due;

(B) create a sinking fund to pay the bonds as they become due; and

(C) create and maintain a bond reserve fund and other funds as provided in the bond resolution or trust indenture.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.027. DEPOSITORY. The authority may:

(1) select a depository in the same manner that a county may select a depository under Chapter 116, Local Government Code; or

(2) award its depository contract to the depository or depositories of the county on the same terms as the terms of the county depository agreement.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.028. EMINENT DOMAIN. (a) To carry out a power granted by this chapter, the authority may acquire the fee simple title to land, other property, and easements by condemnation under Chapter 21, Property Code.

(b) The authority is considered to be a municipal corporation for the purposes of Section 21.021(c), Property Code.

(c) The board shall determine the amount and character of the interest in land, other property, and easements to be acquired under this section.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.029. GIFTS AND ENDOWMENTS. The board may accept

gifts and endowments to hold and administer as required by the respective donors.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.030. SALE OF PROPERTY; GENERAL PROVISIONS.

(a) The board may sell, through sealed bids or at a public auction, real property acquired by gift or purchase that the board determines is not needed for hospital purposes if the sale does not violate:

(1) a trust indenture or bond resolution relating to outstanding bonds of the authority; or

(2) an agreement between the authority and a nonprofit corporation under Chapter 223.

(b) If the board conducts the sale by sealed bids, the board must provide notice of the sale under Section 272.001, Local Government Code.

(c) If the board conducts the sale by public auction, the board must publish a notice of the sale once a week for three consecutive weeks in a newspaper of general circulation in the county. The notice must include a description of the property and the date, time, and place of the auction. The first notice must be published not later than the 21st day before the date of the auction.

(d) This section does not affect the authority's powers under Chapter 223.

(e) This section does not apply to the sale or closing of a hospital as provided in Section 264.031.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1011, Sec. 2, eff. Sept. 1, 1997.

Sec. 264.031. SALE OR CLOSING OF HOSPITAL. (a) The board

may sell all or part of a hospital owned by the authority or close all or part of a hospital owned or operated by the authority. The sale or closing must:

(1) be authorized by resolution of the board;

(2) be executed on behalf of the authority by the president and secretary of the board; and

(3) be made by a document having the seal of the authority impressed on it.

(b) The sale or closing of a hospital may not take effect before the expiration of the time in which a petition may be filed under Subsection (c).

(c) The board shall order and conduct an election on the sale or closing if, before the 31st day after the date the governing body authorizes the sale or closing, the board receives a petition requesting the election signed by at least 10 percent of the qualified voters of the county. The number of qualified voters is determined by the most recent official list of registered voters.

(d) If a petition is filed under Subsection (c), the hospital may be sold or closed only if a majority of the qualified voters voting on the question approve the sale or closing.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.032. EMERGENCY BORROWING. (a) If the board declares that funds are not available to meet lawfully authorized obligations of the authority and that an emergency exists, the board may borrow money at a rate of interest not to exceed the maximum annual percentage rate allowed by law for authority obligations at the time the loan is made.

(b) To secure a loan, the board may pledge:

(1) revenues of the authority that are not pledged to pay bonded indebtedness of the authority;

(2) authority bonds that have been authorized but not sold; or

(3) revenues of the authority if the pledge is subordinate to any pledge securing outstanding bonds of the authority.

(c) A loan for which bonds are pledged must mature not later than the first anniversary of the date on which the loan is made. A loan for which authority revenues are pledged must mature not later than the fifth anniversary of the date on which the loan is made.

(d) The board may not spend money obtained from a loan under this section for any purpose other than the purpose for which the board declared an emergency and, if bonds are pledged to pay the



loan, for any purpose other than the purposes for which the pledged bonds were authorized.

Added by Acts 1997, 75th Leg., ch. 1011, Sec. 1, eff. Sept. 1, 1997.

Sec. 264.033. TIME WARRANTS. The authority may issue time warrants in the manner in which a commissioners court may issue time warrants under Subchapter C, Chapter 262, Local Government Code.

Added by Acts 1997, 75th Leg., ch. 1011, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 33, eff. Sept. 1, 1999.

Sec. 264.034. FACILITIES AND SERVICES FOR THE DISABLED OR THE ELDERLY. (a) The authority may construct, acquire, own, operate, enlarge, improve, furnish, equip, or provide the following facilities and services to care for the disabled or the elderly:

- (1) a nursing home or similar long-term care facility;
- (2) elderly housing;
- (3) assisted living services;
- (4) home health care;
- (5) personal care;
- (6) special care;
- (7) continuing care; or
- (8) durable medical equipment.

(b) The authority may lease or enter into an operations or management agreement to care for the disabled or the elderly under Subsection (a).

(c) The authority may sell, transfer, otherwise convey, or close all or part of a facility described by Subsection (a) and discontinue a service described by Subsection (a).

(d) The authority may issue revenue bonds, notes, and time warrants as provided by this chapter to acquire, construct, or improve a facility described by Subsection (a).

(e) For purposes of Chapter 223, a facility or service described by Subsection (a) is a hospital project.

Added by Acts 1997, 75th Leg., ch. 1011, Sec. 1, eff. Sept. 1, 1997.

Sec. 264.035. ESTABLISHMENT OF NONPROFIT CORPORATION.

(a) The authority may form and sponsor a nonprofit corporation under the Texas Nonprofit Corporation Law, as described by Section 1.008, Business Organizations Code, to own and operate all or part of one or more ancillary health care facilities consistent with the purposes of an authority under this chapter.

(b) The board shall appoint the board of directors of a nonprofit corporation formed under this section.

(c) The authority may contribute money to or solicit money for the nonprofit corporation. If the authority contributes money to or solicits money for the corporation, the authority shall establish procedures and controls sufficient to ensure that the money is used by the corporation for public purposes.

(d) A nonprofit corporation formed under this section has the same powers as a development corporation under Section 221.030.

(e) A nonprofit corporation formed under this section shall comply with Chapter 2258, Government Code, in the same manner and to the same extent that the authority is required to comply with that chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 470, Sec. 2, eff. June 16, 2007.

Sec. 264.036. HOSPITAL AUTHORITY CONTRACTS, COLLABORATIONS, AND JOINT VENTURES. The authority may, directly or through any nonprofit corporation formed by the authority, contract, collaborate, or enter into a joint venture with any public or private entity as necessary to carry out the functions of or provide services to the authority.

Added by Acts 2007, 80th Leg., R.S., Ch. 470, Sec. 2, eff. June 16, 2007.

#### SUBCHAPTER D. BONDS

Sec. 264.041. REVENUE BONDS. (a) The authority may issue revenue bonds to provide funds for any of the authority's purposes.

(b) Revenue bonds must be payable from, and secured by a pledge of, revenues from the operation of one or more hospitals and any other revenues from owning hospital property. Additionally, revenue bonds may be secured by a mortgage or deed of trust on real

property owned by the authority or by a chattel mortgage on the authority's personal property.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.042. FORM AND PROCEDURE. (a) Revenue bonds must be authorized by a resolution adopted by a majority vote of a quorum of the board. The bonds must:

(1) be signed by the president or vice-president of the board;

(2) be countersigned by the secretary of the board; and

(3) have the seal of the authority impressed or printed on the bonds.

(b) Printed facsimile signatures may be substituted for the actual signatures of the president, vice-president, or secretary.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.043. TERMS. (a) Revenue bonds must mature serially or otherwise not more than 40 years after they are issued.

(b) Revenue bonds may:

(1) be sold at a price and under terms that the board considers the most advantageous reasonably obtainable, except that the net effective interest rate computed according to Chapter 1204, Government Code, may not exceed 10 percent a year;

(2) be made callable before maturity at times and prices prescribed in the resolution authorizing the bonds; and

(3) be made registrable as to principal or as to principal and interest.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.255, eff. Sept. 1, 2001.

Sec. 264.044. NOTICE. (a) Before the board adopts a resolution authorizing the issuance of bonds other than refunding bonds, the board must publish a notice of its intention to adopt the resolution and of the maximum amount and maximum maturity of the bonds.

(b) The notice must be published once a week for two

consecutive weeks in one or more newspapers of general circulation in the authority. The first notice must be published not later than the 15th day before the date set for adoption of the resolution.  
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.045. REFERENDUM. (a) A petition requesting an election on the proposition for the issuance of the revenue bonds may be presented to the secretary or president of the board before the date set for the adoption of the bond resolution. The petition must be signed by at least 10 percent of the qualified voters residing in the county who own taxable property in the authority.

(b) The election shall be ordered and held as provided by Chapter 1251, Government Code. The board, president, and secretary shall perform the functions assigned under that chapter respectively to the commissioners court, county judge, and county clerk.

(c) If a majority of voters who vote at the election approve the issuance of the bonds, the board may issue the bonds. If a petition is not filed, the board may issue the bonds without an election. However, the board may order the election on its own motion if a petition is not filed.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.256, eff. Sept. 1, 2001.

Sec. 264.046. JUNIOR LIEN BONDS; PARITY BONDS. (a) Bonds constituting a junior lien on the revenues or properties may be issued unless prohibited by the bond resolution or the trust indenture.

(b) Parity bonds may be issued under conditions specified by the bond resolution or trust indenture.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.047. BOND PROCEEDS; INVESTMENT OF FUNDS.  
(a) The board may set aside from the proceeds from the sale of bonds:

(1) an amount for payment of not more than two years' interest on the bonds;

(2) the amount required for operating expenses during the first year of operation as estimated by the board; and

(3) an amount to fund any bond reserve fund or other reserve funds provided for in the bond resolution or trust indenture.

(b) The bond proceeds may be deposited in banks and paid out under terms as provided in the bond resolution or trust indenture.

(c) The law relating to the security for and the investment of county funds controls, to the extent applicable, the investment of the authority's funds. The bond resolution or trust indenture may further restrict those investments. Additionally, the authority may invest its bond proceeds, until that money is needed, as authorized by the bond resolution or trust indenture.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.048. REFUNDING BONDS. (a) The authority may issue bonds to refund outstanding bonds in the same manner that other bonds are issued under this chapter.

(b) Bonds issued under this section may be exchanged by the comptroller or sold. The proceeds shall be applied as provided by Subchapters B and C, Chapter 1207, Government Code, or other applicable law.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.257, eff. Sept. 1, 2001.

Sec. 264.049. APPROVAL AND REGISTRATION OF BONDS. (a) The authority shall submit to the attorney general the bonds issued under this chapter and the record relating to the issuance of those bonds.

(b) If the attorney general finds that the bonds were issued in accordance with this chapter, are valid and binding obligations of the authority, and are secured as recited in the bonds:

(1) the attorney general shall approve the bonds; and

(2) the comptroller shall register the bonds and certify the registration on the bonds.

(c) Following approval and registration, the bonds are incontestable.

(d) The bonds are negotiable and must contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation." Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 264.050. LEGAL INVESTMENTS. Bonds of the authority are legal and authorized investments for:

- (1) a bank;
- (2) a savings bank;
- (3) a trust company;
- (4) a savings and loan association;
- (5) an insurance company; or
- (6) the sinking fund of a political corporation or subdivision of the state, including a municipality, county, or school district.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.