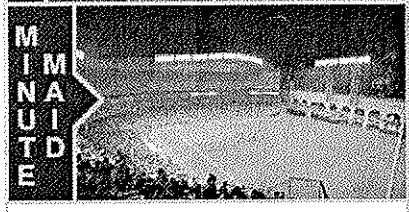


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HARRIS COUNTY
HOUSTON
SPORTS AUTHORITY

LEGAL
DOCUMENTS



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House Bill No. 92 (Legislative Session 75)

H.B. No. 92

AN ACT

relating to the financing of sports and community venues and related infrastructure; authorizing the imposition of certain local taxes and the issuance of local bonds; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 10, Local Government Code, is amended by adding Chapters 334 and 335 to read as follows:

CHAPTER 334. SPORTS AND COMMUNITY VENUES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 334.001. DEFINITIONS. In this chapter:

- (1) "Approved venue project" means a sports and community venue project that has been approved under this chapter by the voters of a municipality or county.
- (2) "Governing body" means the governing body of a municipality or the commissioners court of a county.
- (3) "Related infrastructure" includes any store, restaurant, on-site hotel, concession, automobile parking facility, area transportation facility, road, street, water or sewer facility, park, or other on-site or off-site improvement that relates to and enhances the use, value, or appeal of a venue, including areas adjacent to the venue, and any other expenditure reasonably necessary to construct, improve, renovate, or expand a venue, including an expenditure for environmental remediation.
- (4) "Venue" means:
 - (A) an arena, coliseum, stadium, or other type of area or facility:
 - (i) that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including rodeos, livestock shows, agricultural expositions, promotional events, and other civic or charitable events; and
 - (ii) for which a fee for admission to the events is charged or is planned to be charged;
 - (B) a convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, auditorium, theater, opera house, music hall, exhibition hall, rehearsal hall, park, zoological park,

museum, aquarium, or plaza located in the vicinity of a convention center or facility owned by a municipality or a county;

(C) a tourist development area along an inland waterway; and

(D) any other economic development project authorized by other law.

(5) "Sports and community venue project" or "venue project" means a venue and related infrastructure that is planned, acquired, established, developed, constructed, or renovated under this chapter.

Sec. 334.002. APPLICATION TO CERTAIN MUNICIPALITIES AND COUNTIES. This chapter applies to a municipality with a population of more than 1.2 million and to a county with a population of more than 2.2 million only if the municipality and county create a sports and community venue district under Chapter 335 and only to the extent the use of this chapter by the district is necessary or convenient for the creation or operation of the district to the fullest extent authorized by Chapter 335.

Sec. 334.003. APPLICATION TO VENUE CONSTRUCTED UNDER OTHER LAW. A county or municipality may use this chapter for a venue project relating to a venue and related infrastructure planned, acquired, established, developed, constructed, or renovated under other law, including Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), or Subchapter E, Chapter 451, Transportation Code.

Sec. 334.004. OTHER USES OF VENUE PERMITTED. This chapter does not prohibit the use of a venue for an event that is not related to a purpose described by Section 334.001, such as a community-related event.

Sec. 334.005. SPECIFIC PERFORMANCE. (a) The legislature expressly finds and determines that:

(1) the presence of a professional sports team in an approved venue project built or renovated under this chapter provides a unique value to the municipality or county that built or renovated the project that cannot be adequately valued in money; and

(2) the municipality or county that built or renovated the approved venue project would suffer irreparable injury if a professional sports team breaches its obligation to play its home games in the approved venue project as required by an agreement between the sports team and the municipality or county.

(b) An agreement described by Subsection (a)(2) shall be enforceable by specific performance in the courts of this state. A waiver of this remedy is contrary to public policy and is unenforceable and void.

Sec. 334.006. PROHIBITION AGAINST TAX EXPANSION. In a county with a population of over 2.8 million, no tax on real property or on personal property may be used for the operation, maintenance, renovation, or repair of any venue authorized by an election on November 5, 1996, and constructed after that date.

[Sections 334.007-334.020 reserved for expansion]

SUBCHAPTER B. VENUE PROJECTS

Sec. 334.021. RESOLUTION AUTHORIZING PROJECT. (a) A county or municipality by resolution may provide for the planning, acquisition, establishment,

development, construction, or renovation of a venue project if:

(1) the comptroller determines under Section 334.022 or 334.023 that the implementation of the resolution will not have a significant negative fiscal impact on state revenue;

(2) to the extent required by Section 334.0235 or 334.0236, a rapid transit authority determines that the implementation of the resolution will not have a significant negative impact on the authority's ability to provide services and will not impair any existing contracts; and

(3) the resolution is approved by a majority of the qualified voters of the municipality or county voting at an election called and held for that purpose under Section 334.024.

(b) The resolution must designate each venue project and each method of financing authorized by this chapter that the municipality or county wants to use to finance a project. A resolution may designate more than one method of financing.

Sec. 334.022. STATE FISCAL IMPACT ANALYSIS. (a) Before calling an election on the resolution under Section 334.024, the municipality or county shall send a copy of the resolution to the comptroller.

(b) Before the 15th day after the date the comptroller receives the copy of the resolution, the comptroller shall:

(1) perform an analysis to determine if approval and implementation of the resolution will have a significant negative fiscal impact on state revenue; and

(2) provide to the municipality or county written notice of the results of the analysis.

(c) If the comptroller determines that implementation will have a significant negative fiscal impact on state revenue, the written analysis required under Subsection (b)(2) must include information on how to change the resolution so that implementation will not have a significant negative fiscal impact on state revenue.

(d) If the comptroller does not complete the analysis and provide the notice before the 30th day after the date the comptroller receives the copy of the resolution, the comptroller is considered to have determined that approval and implementation of the resolution will not have a significant negative fiscal impact on state revenue.

Sec. 334.023. APPEAL OF COMPTROLLER DETERMINATION. (a) If the comptroller determines under Section 334.022 that implementation of the resolution will have a significant negative fiscal impact on state revenue, the municipality or county may contest the finding by filing an appeal with the comptroller not later than the 10th day after the date the municipality or county receives the written notice under Section 334.022.

(b) Before the 11th day after the date the comptroller receives the appeal under Subsection (a), the comptroller shall perform a new analysis to determine if implementation of the resolution will have a significant negative fiscal impact on state revenue and provide to the municipality or county written notice of the results of the analysis.

(c) If the comptroller again determines that implementation will have a significant negative fiscal impact on state revenue, the written analysis required under

Subsection (b) must include additional information on how to change the resolution so that implementation will not have a significant negative fiscal impact on state revenue.

(d) If the comptroller does not comply with Subsection (b) before the 30th day after the date the comptroller receives the appeal or request for information, the comptroller is considered to have determined that approval and implementation of the resolution will not have a significant negative fiscal impact on state revenue.

Sec. 334.0235. TRANSPORTATION AUTHORITY IMPACT ANALYSIS. (a) If the resolution contains a proposed sales and use tax under Subchapter D, and imposition of the tax would result in the reduction of the tax rate of a rapid transit authority created under Chapter 451, Transportation Code, or a regional transportation authority created under Chapter 452, Transportation Code, the municipality or county shall send a copy of the resolution to the authority before calling an election on the resolution under Section 334.024.

(b) Before the 30th day after the date the rapid transit authority receives the copy of the resolution, the authority shall:

(1) perform an analysis to determine if implementation of the proposed sales and use tax and the resulting reduction in the authority's tax rate will:

(A) have a significant negative impact on the authority's ability to provide services; or

(B) impair any existing contracts; and

(2) provide to the municipality or county written notice of the results of the analysis.

(c) If the rapid transit authority determines that implementation of the resolution will have a significant negative impact on the authority's ability to provide services or will impair any existing contracts, the written analysis required under Subsection (b)(2) must include information on how to change the resolution so that implementation will not have a significant negative impact on the authority's ability to provide service or will not impair any existing contracts.

(d) If the rapid transit authority does not complete the analysis and provide the notice before the 30th day after the date the authority receives the copy of the resolution, the authority is considered to have determined that implementation of the resolution will not have a significant negative impact on the authority's ability to provide services and will not impair any existing contracts.

Sec. 334.0236. APPEAL OF AUTHORITY DETERMINATION. (a) If a rapid transit authority determines under Section 334.0235 that implementation of the resolution will have a significant negative impact on the authority's ability to provide services or will impair an existing contract, the municipality or county may contest the finding by filing an appeal with the authority not later than the 10th day after the date the municipality or county receives the written notice under Section 334.0235.

(b) Before the 11th day after the date the rapid transit authority receives the appeal under Subsection (a), the authority shall perform a new analysis to determine if implementation of the resolution will have a significant negative impact on the authority's ability to provide services or will impair an existing contract and provide to the municipality or county written notice of the results of the analysis.

(c) If the authority again determines that implementation will have a significant negative impact on the authority's ability to provide services or will impair an existing contract, the written analysis required under Subsection (b) must include additional information on how to change the resolution so that implementation will not have a significant negative impact on the authority's ability to provide services and will not impair an existing contract.

(d) If the rapid transit authority does not comply with Subsection (b) before the 11th day after the date the authority receives the appeal or request for information, the authority is considered to have determined that approval and implementation of the resolution will not have a significant negative impact on the authority's ability to provide services and will not impair any existing contracts.

Sec. 334.024. ELECTION. (a) If the comptroller determines under Section 334.022 or 334.023 that the implementation of the resolution will not have a significant negative fiscal impact on state revenue, and, if applicable, the rapid transit authority determines under Section 334.0235 or 334.0236 that the implementation will not have a significant negative impact on the authority's ability to provide service and will not impair any existing contracts, the governing body of the municipality or county may order an election on the question of approving and implementing the resolution.

(b) The order calling the election must:

(1) allow the voters to vote separately on each venue project;

(2) designate the venue project;

(3) designate each method of financing authorized by this chapter that the municipality or county wants to use to finance the project and the maximum rate of each method; and

(4) allow the voters to vote, in the same proposition or in separate propositions, on each method of financing authorized by this chapter that the municipality or county wants to use to finance the project and the maximum rate of each method.

(c) The ballot at the election held under this section must be printed to permit voting for or against the proposition: "Authorizing _____ (insert name of municipality or county) to _____ (insert description of venue project) and to impose a _____ tax at the rate of _____ (insert the type of tax and the maximum rate of the tax) for the purpose of financing the venue project."

(d) If more than one method of financing is to be voted on in one proposition, the ballot must be printed to permit voting for or against the proposition: "Authorizing _____ (insert name of municipality or county) to _____ (insert description of venue project) and to impose a _____ tax at the rate of _____ (insert each type of tax and the maximum rate of each tax) for the purpose of financing the venue project."

(e) The Election Code governs an election held under this chapter.

[Sections 334.025-334.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 334.041. GENERAL POWERS. (a) A municipality or county may perform any act necessary to the full exercise of the municipality's or county's powers under

this chapter.

(b) A municipality or county may acquire, sell, lease, convey, or otherwise dispose of property or an interest in property, including an approved venue project, under terms and conditions determined by the municipality or county. In a transaction with another public entity that is made as provided by this subsection, the public purpose found by the legislature under Section 334.044 is adequate consideration for the municipality or county and the other public entity.

(c) A municipality or county may contract with a public or private person, including a sports team, club, organization, or other entity to:

(1) plan, acquire, establish, develop, construct, or renovate an approved venue project; or

(2) perform any other act the municipality or county is authorized to perform under this chapter, other than conducting an election under this chapter.

(d) A municipality or county may contract with or enter into an interlocal agreement with a school district, junior or community college district, or an institution of higher education as defined by Section 61.003, Education Code, for a purpose described by Subsection (c). The contract or interlocal agreement may provide for joint ownership and operation or joint use.

(e) The competitive bidding laws, including Chapter 271, do not apply to the planning, acquisition, establishment, development, construction, or renovation of an approved venue project under this chapter.

(f) A municipality or county may not use revenue derived from ad valorem taxes to construct, operate, maintain, or renovate a venue that is part of an approved venue project.

Sec. 334.0415. USE OF FINANCING FOR CERTAIN PROJECTS.

Notwithstanding any other provision of this chapter, a municipality or county, or an entity created by or acting on behalf of or in conjunction with a municipality or county, that contracts with a professional sports team or the team's owner or representative on or before November 1, 1998, for the team to relocate and play at an arena, coliseum, or stadium in the municipality or county may not use any method of financing authorized by this chapter to finance the acquisition or construction of the arena, coliseum, or stadium if the team is playing under an existing contract and is located in another arena, coliseum, or stadium owned by a different municipality or county in this state unless the governing body of that different municipality or county consents to the contract.

Sec. 334.042. VENUE PROJECT FUND. (a) A municipality or county in which an approved venue project is located shall establish by resolution a fund known as the venue project fund. The municipality or county shall establish separate accounts within the fund for the various revenue sources.

(b) The municipality or county shall deposit into the venue project fund:

(1) the proceeds of any tax imposed by the municipality or county under this chapter;

(2) all revenue from the sale of bonds or other obligations by the municipality or county under this chapter; and

(3) any other money required by law to be deposited in the fund.

(c) The municipality or county may deposit into the venue project fund:

(1) money received by the municipality or county from innovative funding concepts such as the sale or lease of luxury boxes or the sale of licenses for personal seats; and

(2) any other revenue received by the municipality or county from the approved venue project, including stadium rental payments and revenue from concessions and parking.

(d) The municipality or county may use money in the venue project fund to:

(1) reimburse or pay the costs of planning, acquiring, establishing, developing, constructing, or renovating one or more approved venue projects in the municipality or county;

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the municipality or county or to refund bonds, notes, or other obligations; or

(3) pay the costs of operating or maintaining one or more approved venue projects.

(e) Money deposited into the venue project fund, including money deposited under Subsection (c), is the property of the municipality or county depositing the money.

Sec. 334.0425. BOOKS, RECORDS, AND PAPERS. The books, records, and papers of the municipality or county relating to an approved venue project and the revenue used to finance the project are public information and subject to disclosure under Chapter 552, Government Code.

Sec. 334.043. BONDS AND OTHER OBLIGATIONS. (a) A municipality or county in which an approved venue project is located may issue bonds, including revenue bonds and refunding bonds, or other obligations to pay the costs of the approved venue project.

(b) The bonds or other obligations and the proceedings authorizing the bonds or other obligations shall be submitted to the attorney general for review and approval as required by Article 3, Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes).

(c) The bonds or other obligations must be payable from and secured by the revenues in the venue project fund.

(d) The bonds or other obligations may mature serially or otherwise not more than 30 years from their date of issuance.

(e) The bonds or other obligations are not a debt of and do not create a claim for payment against the revenue or property of the municipality or county other than the revenue sources pledged and an approved venue project for which the bonds are issued.

Sec. 334.044. PUBLIC PURPOSE OF VENUE PROJECT. (a) The legislature finds for all constitutional and statutory purposes that an approved venue project is owned, used, and held for public purposes by the municipality or county.

