

**BILL ANALYSIS**

C.S.S.B. 1472  
By: West  
County Affairs  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

Currently, the Dallas Zoo is managed and maintained by the city's park and recreation department. C.S.S.B. 1472 authorizes the creation of a zoo board in a county with a population greater than 1.5 million that is adjacent to a county with a population of more than one 1 million to operate, finance, and manage a public zoological park in the county.

**RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

**ANALYSIS**

SECTION 1. Amends Subtitle B, Title 10, Local Government Code, by adding Chapter 327, as follows:

**CHAPTER 327. ZOOLOGICAL OPERATION AND MAINTENANCE BOARDS**

**SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 327.001. DEFINITIONS. Defines "county," "director" and "zoo board."

[Reserves Sections 327.002-327.050 for expansion.]

**SUBCHAPTER B. CREATION OF ZOO BOARD**

Sec. 327.051. COUNTIES AUTHORIZED TO CREATE ZOO BOARD. Authorizes the commissioners court of a county with a population of more than 1.5 million that is adjacent to a county with a population of more than 1 million by order to authorize the creation of a zoo board under this chapter.

Sec. 327.052. ORDER CREATING ZOO BOARD. (a) Requires the order authorizing the creation of a zoo board to specify that the zoo board is being created under this chapter and has the powers and duties provided in this chapter.

(b) Authorizes the order authorizing the creation of the zoo board to also serve as the election order under Section 327.054.

Sec. 327.053. AUTHORITY TO TAX; ELECTION REQUIRED. Authorizes the county to assess and collect a separate ad valorem tax to provide revenue for a zoo board that it has created. Limits the tax to a rate not to exceed 3 cents per \$100 valuation of taxable property and requires the amount of the tax to be approved by a majority of the voters of the county voting at an election held for that purpose by the county.

Sec. 327.054. ELECTION ORDER. (a) Requires an order for an election under Section 327.053 to state certain information.

(b) Authorizes the election order to contain additional information about the zoo board that the commissioners court of the county considers appropriate to inform the voters of, including information about the zoo board's mission or finances.

Sec. 327.055. CONDUCT OF ELECTION. (a) Requires the county to hold the election under the Election Code to the extent not inconsistent with this chapter.

(b) Requires the ballot for the election to be printed to permit voting for or against the following summary of the proposition: "Authorizing \_\_\_\_\_ (name of county) to pledge a portion of its existing ad valorem taxing authority, in an amount not to exceed \_\_\_\_\_ (rate, not to exceed 3 cents) cents per \$100 valuation of taxable property, to fund the acquisition, construction, operation, and maintenance of one or more zoos to be operated for the county by the \_\_\_\_\_ (name of zoo board)."

Sec. 327.056. ELECTION RESULTS. (a) Requires the county to, not earlier than the second day or later than the 13th day after the election date, canvass the election returns.

(b) Authorizes the county to, if a majority of the votes cast favor the proposition under Section 327.055, designate and use a portion of its existing ad valorem taxing authority as provided in the proposition and this chapter.

©) Prohibits the county, if less than a majority of the votes cast favor the proposition, from ordering another election on the matter earlier than the anniversary of the date of the preceding election.

[Reserves Sections 327.057-327.100 for expansion.]

#### SUBCHAPTER C. ORGANIZATION OF BOARD OF DIRECTORS

Sec. 327.101. BOARD OF DIRECTORS. Provides that a zoo board consists of 7 directors. Five are appointed by members of the commissioners court and two appointed jointly by the commissioners court of the county. Provides that a director serves at the pleasure of the commissioners court.

(b) Requires the commissioners court of a county, in appointing the initial zoo board, to designate five directors to serve a one-year term. Requires the initial director appointed jointly to serve a one-year term.

Sec. 327.102. VACANCY. Provides that a vacancy on the zoo board is filled in the same manner as the original appointment.

Sec. 327.103. OFFICERS. (a) Directs the commissioners court to appoint the presiding officer.

(b) Vice presiding officer, secretary, and treasurer are elected by the board from among its members.

©) Authorizes the offices of secretary and treasurer to be held by the same director. Authorizes the other officer, if either the secretary or treasurer is unavailable and if the offices are held by different directors, to act for and perform the duties of the unavailable officer.

Sec. 327.104. MEETINGS. Requires a zoo board to hold regular meetings at times to be fixed by the zoo board or special meetings as necessary.

Sec. 327.105. COMPENSATION; EXPENSES. (a) Provides that a director serves without compensation but may be reimbursed for a reasonable and necessary expense, including a travel expense, incurred in performing an official duty.

(b) Provides that to receive reimbursement under Subsection (a) the director must report the expense in the zoo board's minute book or other zoo board record and the zoo board must approve the expense.

Sec. 327.106. IMMUNITY FROM LIABILITY. Provides that a director is not liable for civil damages or criminal prosecution for any act performed in good faith in the execution of the director's duties or for any action taken by the zoo board.

[Reserves Sections 327.107-327.150 for expansion.]

#### SUBCHAPTER D. ZOO BOARD POWERS AND DUTIES

Sec. 327.151. GENERAL POWERS. Authorizes a zoo board to exercise any power necessary or appropriate to further a zoo board purpose, including establishing or operating one or more zoos.

Sec. 327.152. RULES. Authorizes the board to adopt rules to implement this chapter, including rules to govern the zoo board or manage zoos.

Sec. 327.153. EXECUTIVE DIRECTOR; RULES. (a) Authorizes a zoo board to appoint an executive director to manage the zoo board's operations.

(b) Authorizes the zoo board by rule to define the powers, duties, and compensation of the executive director.

Sec. 327.154. EMPLOYEES; RULES. (a) Authorizes a zoo board to delegate to the executive director the power to hire and fire persons necessary to carry out the zoo board's duties.

(b) Authorizes the zoo board to adopt rules regarding the powers, duties, qualifications, and compensation of zoo board employees.

Sec. 327.155. CONTRACTS--GENERAL. (a) Authorizes a zoo board to contract with any person, including a governmental entity, private vendor, or foreign state, for any zoo board purpose, including contracting with certain entities to furnish staff, facilities, equipment, programs, utilities, and services the board considers necessary or appropriate to effectively operate the zoo board or a zoo under its control.

(b) Authorizes a contract to be on terms and conditions and for the length of time as agreed to by the zoo board.

©) Provides that a contract binds the zoo board and the county without reference to any other law.

Sec. 327.156. AGREEMENT TO OPERATE DISTRICT. (a) Requires the board, in selecting a person to operate a zoo under Section 327.155, to consider certain information.

(b) Authorizes the agreement to allow a reasonable time after it becomes effective for the person to obtain accreditation and permits under Subsection (a)(3).

Sec. 327.157. PROPERTY. Authorizes a zoo board to acquire and sell property for any zoo board purpose. Acquisition or sale must be approved by the commissioners court.

Sec. 327.158. PUBLIC PURPOSE OF DONATIONS, AGREEMENTS, OR TRANSFERS WITH OR FROM OTHER POLITICAL ENTITIES; EXCEPTION TO COMPETITIVE BIDDING. (a) Authorizes a governmental entity, including a municipality, county, special district, or other political subdivision of the state, to sell, lease, donate, or otherwise transfer to a zoo board a zoo, zoo-related property, or any other property on a finding by the transferring entity that the action is being carried out to further the public purpose of providing and maintaining the zoo-related property.

(b) Authorizes the entity to make the transfer without complying with laws on competitive bids or proposals.

Sec. 327.159. ZOO BOARD RECORDS. (a) Requires a zoo board to keep a complete account of each zoo board meeting or other proceeding and maintain zoo board records in a secure manner.

(b) Provides that the records are the property of the zoo board.

©) Authorizes the commissioners court of the county and other county officers to inspect zoo board records at all reasonable times during regular business hours.

Sec. 327.160. DONATIONS. Authorizes a zoo board to accept a donation, grant, or other gift from any person for any zoo board purpose. Acceptance of a donation or gift must be approved by the commissioners court.

Sec. 327.161. SUITS; SERVICE OF PROCESS; LEGAL SERVICES. (a) Authorizes a zoo board to sue and be sued.

(b) Authorizes process, in a suit against a zoo board, to be served on a director or registered agent.

©) Authorizes the county or district attorney to perform any necessary legal services for the zoo board.

Sec. 327.162. SUPERVISION BY COUNTY. (a) Authorizes the commissioners court of the county to supervise the zoo board in the exercise of all powers and duties under this chapter.

(b) Authorizes the commissioners court of the county to decide to approve all zoo board contracts, leases, deeds, or other agreements. Provides that an appropriate entry in the minutes of the commissioners court of the county is sufficient evidence of approval.

Sec. 327.163. SEAL. Requires a zoo board to adopt a seal for the zoo board.

[Reserves Sections 327.164-327.200 for expansion]

#### SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Sec. 327.201. GENERAL ZOO BOARD POWER OVER FUNDS. Requires a zoo board to manage and control zoo board funds, subject to supervision or approval of the commissioners court.

Sec. 327.202. ACCOUNTING AND CONTROL PROCEDURES. Authorizes a zoo board by rule to adopt accounting and control procedures for the zoo board, subject to supervision or approval of the commissioners court.

Sec. 327.203. PURCHASING AND EXPENDITURE METHOD. Authorizes a zoo board by rule to prescribe the zoo board's method of making purchases and expenditures.

Sec. 327.204. FISCAL YEAR. (a) Requires a zoo board by rule to establish the zoo board's fiscal year.

(b) Prohibits the zoo board from changing the fiscal year more than once in a two-year period.

Sec. 327.205. ANNUAL AUDIT REQUIRED. Requires a zoo board to have an annual audit of the zoo board's financial condition performed by an independent auditor.

Sec. 327.206. ANNUAL BUDGET PROPOSAL. (a) Requires a zoo board to propose an annual budget.

(b) Requires the proposed budget to contain a complete financial statement, including certain information.

Sec. 327.207. ADOPTION OF ANNUAL BUDGET; HEARING. (a) Requires the zoo board, not later than the 100th day before the date each fiscal year begins, to hold a public hearing on the proposed annual budget.

(b) Requires the zoo board to publish notice of the hearing in a newspaper with general circulation in the county not later than the 10<sup>th</sup> day before the date of the hearing.

©) Provides that any county resident is entitled to be present and participate at the hearing.

(d) Requires the zoo board, not later than the 80th day before the date each fiscal year begins, to adopt a budget. Authorizes the zoo board to make any changes in the proposed budget that in its judgment the interests of the taxpayers demand.

(e) Requires the zoo board, not later than the 10th day after the date the budget is adopted, to submit the budget, with any revisions, to the governing body of the county for final approval.

(f) Requires that final budget be approved by the commissioners court.

Sec. 327.208. LIMITATIONS ON EXPENDITURES AND INVESTMENTS. (a) Prohibits a zoo board from spending money unless the expense is included in the annual budget.

(b) Prohibits a zoo board from incurring a debt payable from zoo board revenue except for revenue in the current or immediately following fiscal year.

Sec. 327.209. ACCOUNT OF ZOO BOARD DISBURSEMENTS. Requires a zoo board employee, not later than the 60th day after the last day of each fiscal year, to prepare for the zoo board a sworn statement showing the zoo board's funds and the disbursements of those funds.

[Reserves Sections 327.210-327.250 for expansion.]

## SUBCHAPTER F. BONDS

Sec. 327.251. GENERAL OBLIGATION BONDS. Authorizes the commissioners court of the county to issue and sell bonds to acquire, construct, equip, or enlarge any zoo or zoo-related property, including a zoo board building or other facility.

Sec. 327.252. TAXES TO PAY BONDS. (a) Requires the commissioners court of the county, when the county issues bonds under this chapter, to impose an ad valorem tax on all property subject to county taxation.

(b) Requires the tax amount to be sufficient to create an interest and sinking fund to pay the principal of and interest on the bonds as they mature.

©) Requires the proceeds of the tax to be used to pay the principal of, interest on, and other fees and charges relating to the bonds.

Sec. 327.253. AUTHORITY FOR BOND ELECTION. Authorizes the commissioners court of the county to order a bond election on its own motion or on the zoo board's request.

Sec. 327.254. EXECUTION OF BONDS. Requires the county judge to execute the bonds and requires the county clerk to countersign the bonds.

[Reserves Sections 327.255-327.300 for expansion]

## SUBCHAPTER G. TAXES

Sec. 327.301. ANNUAL PROPERTY TAXES. (a) Requires the county annually to impose a separate ad valorem tax in an amount not to exceed the limit approved by the voters under Subchapter B and necessary to pay the county's bonds issued under Subchapter F or to pay any other governmental entity for property transferred to the zoo board.

(b) Authorizes the taxes to be used to pay the bonds issued by the county under Subchapter F or maintenance or other expenses of the zoo board.

Sec. 327.302. TAX RATE. Authorizes the county to consider, in adopting the tax rate, the zoo board's income from sources other than taxation.

[Reserves Sections 327.303-327.350 for expansion.]

## SUBCHAPTER H. DISSOLUTION

Sec. 327.351. DISSOLUTION BY ZOO BOARD REQUEST. (a) The commissioners court may dissolve the zoo board if all zoo board debts and obligations have been discharged.

(b) Provides that any property remaining after dissolution is transferred to the county.

SECTION 2. Effective date: upon passage or September 1, 2003.

### **EFFECTIVE DATE**

This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute differs from the original in that Section 327.002. PURPOSE AND NATURE OF ZOO BOARD is deleted and the purpose language moved to Sec. 327.051. COUNTIES AUTHORIZED TO CREATE ZOO BOARD.

The substitute differs from the original in that Section 327.053 is rewritten to make clear that the tax for the zoo board is a separate tax.

The substitute differs from the original in that several changes are made to Subchapter C. ORGANIZATION OF BOARD OF DIRECTORS:

- a. Number of directors is reduced to seven from eleven.
- b. One director is appointed by each commissioner and the county judge and two are appointed jointly by the commissioners court. The Senate Bill provided for five members to be appointed by the county and five by the governing body of the largest city in the county.
- c. Directors serve at the pleasure of the commissioners court. The Senate Bill provided for two year terms.
- d. The commissioners court appoints the presiding officer. The Senate Bill provided that board members would elect all officers.

The substitute differs from the original in that several changes are made to Subchapter D. ZOO BOARD POWERS AND DUTIES. These changes are to Secs. 327.145, 327.155, 327.157 and 327.160 to add a requirement that all contracts receive prior approval of the commissioners court.

The substitute differs from the original in that several changes are made to Subchapter E. GENERAL FISCAL PROVISIONS. These changes are to Secs. 327.201, 327.202 and 327.207 to add a requirement that fiscal control, accounting practices and budgets are subject to prior approval of the commissioners court.

The substitute differs from the original in that Section 327.301 is rewritten to allow bonds to be used for repayment to another governmental entity for property which it transfers to the zoo board, as well as for maintenance and construction.

The substitute differs from the original in that Section 327.351 is changed to allow the commissioners court to dissolve the zoo board without consent of the governing body of the most populous municipality in the county.