

**NUECES COUNTY HOSPITAL DISTRICT
BOARD OF MANAGERS
Board Legislative Committee - Special Meeting
Tuesday, February 21, 2023 at 10:00 AM**

AGENDA

1. WELCOME

2. ROLL CALL OF COMMITTEE MEMBERS

___ Arthur Granado, Chairman
___ Vishnu V. Reddy, M.D.
___ Judge Mariana Garza

3. CALL TO ORDER, ESTABLISHMENT OF QUORUM, MEETING POSTING CONFIRMATION, AND CLOSED MEETING NOTICE

A. Call to order.

B. Establish quorum.

C. Confirm posting of Meeting's public notice in accordance with Texas Open Meetings Act, Texas Government Code, Chapter 551.

D. Public notice is hereby given that the Committee may elect to go into Closed Meeting session(s) at any time during the meeting to discuss any matter(s) listed on the agenda when so authorized by the provisions of the Open Meetings Act, Texas Government Code, Chapter 551.

4. PUBLIC COMMENT - Persons attending in-person and wishing to comment on any item(s) on the agenda or any subject within the Committee's responsibilities must sign-in on the "Agenda Item Request to Speak" form provided at the entrance of the Committee meeting room at least five (5) minutes prior to commencement of the meeting. Persons attending via audio or video conference and wishing to comment on any item(s) on the agenda or any subject within the Committee's responsibilities must verbally notify the presiding officer of their desire to comment when the officer calls for public comment from those attending via audio and video conference. Commenters shall limit their comments to three (3) minutes, except that Commenters addressing the Committee through a translator shall limit their comments to six (6) minutes.

5. REGULAR AGENDA - The Regular Agenda consists of those agenda items which are non-routine, not administrative in nature, or otherwise in need of separate attention. Each Regular Agenda item will be voted upon separately if action is required:

- A. Receive information on 88th Texas Session Legislative Agenda. *(INFORMATION)*
- B. Recommend adoption of Board of Managers Resolution requesting and supporting legislation to use a broker for the sale of Hospital District real property. *(ACTION)* 3
- C. Recommend amendment of the 88th Texas Session Legislative Agenda to additionally include preservation of the Hospital District's authority to issue Certificates of Obligation. *(ACTION)* 7
- D. Recommend actions on introduced legislation HB 1489 relating to the issuance of Certificates of Obligation by local governments. *(ACTION)* 13
- E. Recommend use of Nueces County's legislative consultants, as needed, on matters related to HB 1489, preservation of the Hospital District's authority to issue Certificates of Obligation, and any other related proposed legislation which may affect the Hospital District. *(ACTION)* 19

6. ADJOURN



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BOARD OF MANAGERS RESOLUTION
FEBRUARY 21, 2023

**A RESOLUTION REQUESTING AND SUPPORTING LEGISLATION AUTHORIZING
THE SALE OF NUECES COUNTY HOSPITAL DISTRICT PROPERTY
THROUGH A REAL ESTATE BROKER**

WHEREAS, the Nueces County Hospital District (the “Hospital District” or “District”) is a body politic and corporate and a political subdivision of the State of Texas, established and created pursuant to the Texas Constitution, Article IX, Section 4 and the Texas Health and Safety Code (the “Health Code”), Chapter 281, and operated in accordance with the Health Code and other applicable laws of the State of Texas;

WHEREAS, pursuant to the collective authorities of the Health Code, §281.047 and §281.048, the Board of Managers of the Hospital District (the “Board”) has, and at the time of adoption of this Resolution had, full power and authority to manage, control, administer, and to adopt rules governing operation of the Hospital District;

WHEREAS, presently, the sale of Hospital District property is competitively bid pursuant to §271.001, Texas Local Government Code;

WHEREAS, the Board is desirous of having additional options for sale of hospital district property consistent with procedures afforded other hospital districts in Texas, specifically sale through a real estate broker; and

WHEREAS, the sale of property through a real estate broker would be an additional option and allow for publishing of property in a multiple-listing service viewed by other real estate brokers.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MANAGERS OF THE NUECES COUNTY HOSPITAL DISTRICT, does hereby request and express its support for legislation authorizing the sale of Nueces County Hospital District real property through a real estate broker.

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[BOARD OF MANAGERS SIGNATURE PAGE FOLLOWS]

**NUECES COUNTY HOSPITAL DISTRICT
BOARD OF MANAGERS**

John E. Valls, MBA
Chairman

Vishnu V. Reddy, M.D.
Vice Chairman

Sylvia Tryon Oliver
Member

Belinda Flores, R.N.
Member

Judge Mariana Garza
Member

Efrain Guerrero, Jr.
Member

Arthur Granado
Member

**CERTIFICATE FOR RESOLUTION
A RESOLUTION REQUESTING AND SUPPORTING LEGISLATION AUTHORIZING
THE SALE OF NUECES COUNTY HOSPITAL DISTRICT PROPERTY
THROUGH A REAL ESTATE BROKER**

THE STATE OF TEXAS §
 §
COUNTY OF NUECES §

I, the undersigned Secretary of the Board of Managers of the Nueces County Hospital District, hereby attest as follows:

1. The Board of Managers of said District convened in regular meeting on the 21st day of February 2023, at the regular meeting place, and the roll was called of the duly constituted officers and members of said Board of Managers, to wit:

John E. Valls, MBA, Chairman
Vishnu V. Reddy, M.D., Vice Chairman
Sylvia Tryon Oliver
Belinda Flores, R.N.
Judge Mariana Garza
Efrain Guerrero, Jr.
Arthur Granado

and all of said persons were present, except the following absentees: _____, _____, and _____ thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: A written

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THE SALE OF NUECES COUNTY HOSPITAL DISTRICT PROPERTY
THROUGH A REAL ESTATE BROKER**

was introduced for the consideration of said District and read in full. It was then duly moved and seconded that said Resolution be passed, and, after due discussion, said motion, carrying with it the passage of said Resolution, prevailed, and carried by the following vote:

YEAS: _____
NAYS: _____
PRESENT NOT VOTING: _____
ABSENT: _____

2. That a true, full and correct copy of the aforesaid Resolution passed at the meeting described in the above and forgoing paragraph is attached to and follows this Certificate; that said Resolution has been duly recorded in the minutes of said Meeting; that the above and forgoing paragraph is a true, full, and correct excerpt from the minutes of said Meeting pertaining to and passage of said Resolution; that the persons named in the above and forgoing paragraph are the duly appointed, qualified, and acting members of the Board of Managers of said District as indicated therein; that each of the members of the Board of Managers of said District was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of aforesaid Meeting, and that said Resolution would be introduced and considered for passage at said Meeting, and that each of said members consented, in advance, to holding of said Meeting for such purpose; and that said Meeting was open to the public, and public notice of the date, time, place, and purpose of said Meeting was given all as required by Texas Government Code, §551.001 et.seq.

SIGNED AND SEALED THIS 21st day of February, 2023.

ATTEST:

Jonny F. Hipp
Secretary, Board of Managers

{NCHD SEAL}

Nueces County Hospital District

88th Texas Legislative Priorities

February 21, 2023

Local Priorities

L1. Establishment of Authority for Individual Commissioners to Appoint Board of Managers Members

Under current statutes, the full local Commissioners Court appoints members to the Nueces County Hospital District's Board of Managers; Commissioners do not have the authority to make individual appointments to the Board.

NCHD Supports:

- [Option 1] Adoption of local statutes allowing for each of the five Commissioners Court members to make an appointment to the Board of Managers and for the full court to make the remaining two appointments.
- [Option 2] Adoption of local statutes allowing Commissioners Court members to rotate making appointments to the Board of Managers.

L2. Establishment of Qualifications for Board of Managers Appointments

There are no statutes governing the qualifications of office for individuals to be appointed by Commissioners Court to the Nueces County Hospital District's Board of Managers.

NCHD Supports:

- Adoption of local statutes establishing qualifications for appointment to the Board of Managers. The statutes should provide that Commissioners Court may not appoint a person to the Board if the person is: (1) not a County resident; (2) an employee of the Hospital District; (3) an employee of Nueces County; (4) an employee of any town, municipality, or City located within the District's boundaries; (5) employee of any institutional health care provider located in the District, as such provider is defined in Chapter 298C, Texas Health and Safety Code; and (6) related within the third degree of consanguinity or affinity, as determined under Subchapter B, Chapter 573, Government Code, to a member of the Commissioners Court or to a person described in (1), (2), or (3) above.

L3. Issuance of Certificates of Appointment for Board of Managers

Currently, when persons are appointed by Commissioners Court to the Nueces County Hospital District's Board of Managers they receive an appointment letter from the County Judge. Conclusive evidence of an appointment to the Board of Managers should be established.

NCHD Supports:

- Adoption of local statutes providing for conclusive evidence of Commissioners Court's appointment of a person to the Board of Managers. Conclusive evidence of the appointment of a Board of Managers member should state on a Certificate of Appointment the appointee's (1) legal name; (2) physical address; (3) effective date of appointment; (4) term of appointment; (5) ending date of appointment; (6) conditions of the appointment or removal; and (7) Commissioners Court's place number. The Certificate of Appointment should be signed by the entire Commissioners Court, sealed to authenticate the Court's act, and filed with the County Clerk

L4. Establishment of Conditions for Board of Manager's Member Removal

There are no statutes governing the removal of individuals appointed to the Nueces County Hospital District's Board of Managers.

NCHD Supports:

- Adoption of local statutes establishing conditions for removal of existing Board of Managers members. The statutes should provide that members of the Board are considered to have resigned the member's position if the member: (1) is absent from all the regularly scheduled Board and Committee meetings that the member is eligible to attend during a 90-day period; (2) is absent from more than half of the regularly scheduled Board and Committee meetings that the member is eligible to attend during a 12-month period; or (3) fails to pay County ad valorem taxes.

L5. Authority to Sell Hospital District-Owned Real Property Using a Broker

Currently, the Hospital District is required to sell real property using the sealed bid procedures of Section 272.001, Local Government Code.

NCHD Supports:

- Legislation that allows for sale of Hospital District-owned real property through use of a broker without complying with the requirements of Section 272.001, Local Government Code.

L6. Support Identification of State Resources or Local Methods for Mental Health Services Funded by Hospital District

The Hospital District provides funding for non-indigent health care expenses, including mental health services.

NCHD Supports:

- Identification of state resources or local methods which may require voter approval that provide funding for non-indigent health care expenses, including mental health services.

L7. No Support of Unfunded or Underfunded Mandates and Policies Contrary to Hospital District and Local Hospital Provider's Interests

Occasionally, unfunded, and underfunded mandates and policies contrary to the Hospital District's interests are passed down from higher levels of government to lower levels.

NCHD Does Not Support:

- Unfunded or underfunded mandates.
- Policies contrary to the Hospital District and local hospital provider's interests.

Statewide Priorities

S1. Support Access to Behavioral Health Services

While the 87th Legislature appropriated additional funding for behavioral health services and facilities, timely access to these services continues to be a barrier for some individuals, including children and adolescents.

NCHD Supports:

- Continuing investments in the state's mental health workforce.
- Ongoing initiatives to increase psychiatric beds, including additional community, forensic, and state hospital beds.
- Maintaining funding to ensure access to inpatient and outpatient behavioral health services.
- Creating proof of concept funding for adult behavioral healthcare resources like the Child Psychiatry Access Network and Texas Child Health Access Telemedicine.

S2. Safeguard Local Health Care Systems and Public Health Response

Safeguard the ability of hospital districts to meet current, known healthcare needs and to plan for and invest in responsiveness to unexpected needs.

NCHD Supports:

- Upholding the Special Taxing Unit exemption for hospital districts at the current eight percent rollback rate.
- Preserving hospital districts' current bond and certificate of obligation authority.
- Preserving hospital district's eminent domain authority.

S3. Safeguard Ability to Use Local Provider Participation Funds (LPPFs)

Safeguard the ability of hospital districts to generate Local Provider Participation Funds (LPPFs) for support of Health and Human Service Commission-sponsored Medicaid supplemental and directed payment programs.

NCHD Supports:

- Preserving the authority of local hospital districts to require Local Provider Participation Funds for intergovernmental transfers from inpatient hospital providers in their jurisdictions to provide matching funds for state-sponsored Medicaid supplemental and directed payment programs.
- Initiatives to increase transparency of sources for funds used for intergovernmental transfers.

S4. Safeguard Trauma Center Funding and Emergency Preparedness

The Texas trauma system provides critical infrastructure to respond to mass casualty events, significant weather events, and pandemics as well as heart attacks, strokes, and other individual accidents and injuries, such as motor vehicle crashes. Level I-designated trauma centers provide the highest level of trauma care, have 24/7 responsiveness and are central to a coordinated, statewide trauma response. Additionally, Level-II-designated trauma centers provide decisive care for all injured patients and offers immediate coverage by many specialists including general surgeons, orthopedic surgeons, neurosurgeons, and critical care.

NCHD Supports:

- Maintaining Texas trauma center funding at last biennium's level, at a minimum, including the trauma, rural, and safety-net hospital add-ons.

S5. Stabilize and Strengthen Care Delivery and Innovation

Ensuring the recovery and long-term stability of local hospital and health system's services, patient care, and community investments. Following three years of COVID-19 response and two years of uncertainty stemming from ongoing negotiations between the state and federal governments and changes in Texas' 1115 waiver and directed payment programs, Texas' hospitals and health systems are restabilizing and operating in a changed healthcare environment. Financing changes, increasing costs, inflationary pressures, ongoing workforce disruptions and shortages, along with the anticipated end of the public health emergency and continuous Medicaid enrollment will shift more Texans into indigent health care systems.

NCHD Supports:

- Preserving state general revenue to ensure stability for the Medicaid program.
- Continuing transparency in Medicaid hospital payments and policies.
- Investing in Medicaid funding to achieve funding parity among hospital types and to target funding for critical safety net system priorities and services.
- Continuing provider-enabled innovation and value-based adaptations to improve access and outcomes, including telehealth/telemedicine, audio only for non-behavioral health services, and the hospital at home program.
- Supporting equity in local financing solutions, such as local provider participation funds to support Medicaid payments.
- Protecting 340B participating hospitals from differential contracting and reimbursement practices by third-party payers.

S6. Preserve Hospital Districts' Authority to Issue Certificates of Obligation

With the approval of their commissioners courts, hospital districts may issue certificates of obligation in accordance with Subchapter C, Chapter 271, Local Government Code, for district purposes as authorized by the governing statute (Texas Health and Safety Code, §281.106). The Nueces County Hospital District plans to expand the Dr. Hector P. Garcia Memorial Family Health Center in the future and certificates of obligation are an option for financing the expansion.

NCHD Supports:

- Preservation of Hospital Districts' authority to issue certificates of obligation.

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By: Tepper

H.B. No. 1489

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the issuance of certificates of obligation by local
3 governments.

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

5 SECTION 1. This Act shall be known as the Certificate of
6 Obligation Reform Act of 2023.

7 SECTION 2. Sections [271.043](#), [271.045](#), and [271.0461](#), Local
8 Government Code, are amended to read as follows:

9 Sec. 271.043. DEFINITIONS. In this subchapter:

- 10 (10) "Public work" means:
11 (i) streets, roads, highways, bridges,
12 sidewalks, parks, landfills, parking structures, or airports;
13 (ii) telecommunications, wireless
14 communications, information technology systems, applications,
15 hardware, or software;
16 (iii) cybersecurity; or
17 (iv) as part of any utility system, water supply
18 project, water plant, wastewater plant, water and wastewater
19 distribution or conveyance facility, wharf, dock, or flood control
20 and drainage project.

21 Sec. 271.045. PURPOSES FOR WHICH CERTIFICATES MAY BE
22 AUTHORIZED. (a) The governing body of an issuer may authorize only
23 the necessary certificates to pay a contractual obligation to be
24 incurred for the construction, renovation, repair, or improvement

1 of a public work:

2 (1) to comply with a state or federal law, rule, or
3 regulation if the political subdivision has been officially
4 notified of noncompliance with the law, rule, or regulation;

5 (2) if the governing body believes the construction,
6 renovation, repair, or improvement of a public work is necessary to
7 mitigate the impact of:

8 (i) a public health emergency that poses an
9 imminent danger to a resident's physical health or safety in the
10 governing body's jurisdiction; or

11 (ii) a natural disaster in the governing body's
12 jurisdiction and:

13 (A) the governor declares or renews a
14 declaration of a state of disaster under Section 418.014,
15 Government Code, in that fiscal year, and the governor's
16 designation of the area threatened includes all or part of the
17 geographic territory of the local government; or

18 (B) the presiding officer of the governing
19 body of a political subdivision declares or renews a declaration of
20 a local state of disaster under Section 418.108, Government Code,
21 in that fiscal year, and the presiding officer's designation of the
22 area threatened includes all or part of the geographic territory of
23 the local government; or

24 (3) if a court renders a decision that requires the
25 local government to construct, renovate, repair, or improve a
26 public work.

27 ~~[(1) construction of any public work,~~

1 ~~(2) purchase of materials, supplies, equipment, machinery,~~
2 ~~buildings, land, and rights-of-way for authorized needs and~~
3 ~~purposes; or~~

4 ~~(3) payment of contractual obligations for professional~~
5 ~~services, including services provided by tax appraisers,~~
6 ~~engineers, architects, attorneys, map makers, auditors, financial~~
7 ~~advisors, and fiscal agents.]~~

8 (b) If necessary because of change orders, the governing
9 body of an issuer may authorize certificates [~~may be authorized~~] in
10 an amount not to exceed 15 [~~25~~] percent of a contractual obligation
11 incurred for the construction of public works, but certificates may
12 be delivered only in the amount necessary to discharge contractual
13 obligations.

14 (c) The governing body of a municipality may issue
15 certificates of obligation to pay all or part of a municipality's
16 obligations incurred by contract for interests in and rights to
17 water or sewer treatment capacity in connection with a water supply
18 and transmission project or sewer treatment or collection project
19 to be constructed in whole or in part on behalf of the municipality
20 by another governmental entity or political subdivision pursuant to
21 a written agreement expressly authorized under Section 552.014 of
22 this code or Section 791.026, Government Code.

23 (d) In exercising its authority to issue certificates of
24 obligation for the purposes specified in Subsection (c), the
25 municipality must limit the principal amount of certificates to be
26 issued for the purpose of funding its contractual obligations to an
27 amount equal to (i) the aggregate of the contractual payments or the

1 total costs allocated or attributed, under generally accepted
2 accounting principles, to the capital costs of the project, as
3 opposed to any maintenance or operating costs to be paid under the
4 written agreement or (ii) the total cost of the project multiplied
5 by the percentage of the nameplate capacity of the project acquired
6 or conveyed by the written agreement to the municipality, whichever
7 limitation is applicable to the contractual interests or rights
8 being conveyed or identified in the written agreement.

9 (e) Work that is directly attributable under generally
10 accepted accounting principles to the costs of the project and that
11 is performed by employees of the issuer may be allocated or
12 attributed to the capital costs of the project.

13 (f) If the governing body of an issuer authorizes
14 certificates to pay a contractual obligation under this section,
15 the governing body must enter into a contract or written agreement
16 for the construction, renovation, repair, or improvement of a
17 public work not later than 90 days after the governing body
18 authorizes the certificates.

19 (g) If the governing body of an issuer authorizes
20 certificates to pay a contractual obligation under this Subsection
21 (a)(2)(i), the governing body shall adopt a resolution stating the
22 conditions and circumstances of the public health emergency.

23 (h) The provisions of this subchapter relating to
24 advertisement for competitive bids apply to contractual
25 obligations to be incurred for a purpose for which certificates are
26 to be issued under this section.

27 Sec. 271.0461. ADDITIONAL PURPOSE FOR CERTIFICATES:

1 DEMOLITION OF DANGEROUS STRUCTURES [~~OR RESTORATION OF HISTORIC~~
2 ~~STRUCTURES~~]. Certificates may be issued by any municipality for the
3 payment of contractual obligations to be incurred in demolishing
4 dangerous structures [~~or restoring historic structures~~] and may be
5 sold for cash, subject to the restrictions and other conditions of
6 Section 271.050.

7 SECTION 3. Sections 271.047(c) and (d), Local Government
8 Code, are amended to read as follows:

9 (c) A certificate may not mature over a period greater than
10 30 [~~40~~] years from the date of the certificate and may not bear
11 interest at a rate greater than that allowed by Chapter 1204,
12 Government Code.

13 (d) Except as provided by this subsection, the governing
14 body of an issuer may not authorize a certificate to pay a
15 contractual obligation to be incurred if a bond proposition to
16 authorize the issuance of bonds for the same purpose was submitted
17 to the voters during the preceding five [~~three~~] years and failed to
18 be approved. A governing body may authorize a certificate that the
19 governing body is otherwise prohibited from authorizing under this
20 subsection:

21 (1) in a case described by Sections 271.056(1)-(3);
22 and

23 (2) to comply with a state or federal law, rule, or
24 regulation if the political subdivision has been officially
25 notified of noncompliance with the law, rule, or regulation.

26 SECTION 4. Section 271.049(c), Local Government Code, is
27 amended to read as follows:

1 (c) If before the date tentatively set for the authorization
2 of the issuance of the certificates or if before the authorization,
3 the municipal secretary or clerk if the issuer is a municipality, or
4 the county clerk if the issuer is a county, receives a petition
5 signed by at least two [~~five~~] percent of the qualified voters of the
6 issuer protesting the issuance of the certificates, the issuer may
7 not authorize the issuance of the certificates unless the issuance
8 is approved at an election ordered, held, and conducted in the
9 manner provided for bond elections under Chapter [1251](#), Government
10 Code.

11 SECTION 5. Section [271.046](#), Local Government Code, is
12 repealed.

13 SECTION 6. Chapter [271](#), Local Government Code, as amended
14 by this Act, applies to a certificate issued on or after the
15 effective date of this Act.

16 SECTION 7. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section [39](#), Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2023.

Memorandum

To: Board of Managers
From: Jonny F. Hipp, Administrator
Date: February 16, 2023
Re: February 21, 2023 Board Meeting Agenda Item 5.A.5

INTRODUCTION:

The purpose of agenda item 5.A.5 is to request use of Nueces County's legislative consultants, as needed, on matters related to preservation of the Hospital District's authority to issue Certificates of Obligation; use subject to Commissioners Court approval.

BACKGROUND:

HB 1489 introduced in the 88th Texas Legislative Session seeks to amend the purposes for which certificates of obligation may be authorized under §271.45, Local Government Code.

DISCUSSION:

Presently, with the approval of their commissioners courts, hospital districts may issue certificates of obligation in accordance with Subchapter C, Chapter 271, Local Government Code, for district purposes as authorized by the governing statute (Texas Health and Safety Code, §281.106).

The Nueces County Hospital District plans to expand the Dr. Hector P. Garcia Memorial Family Health Center in the future and certificates of obligation are an option for financing the expansion.

The Nueces County Hospital District seeks to preserve Hospital Districts' authority to issue certificates of obligation.

RECOMMENDATION:

Request from Commissioners Court use of Nueces County's legislative consultants, Joel Romo and Patricia Shipton, as needed, on matters related to HB 1489, preservation of the Hospital District's authority to issue Certificates of Obligation, and any other related proposed legislation which may affect the Hospital District.

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