

**April 16, 2015**

**A Kinder, Simpler WORD**

The tubing outfitters have offered what they are calling "the private plan" as an alternative to the San Marcos WORD (their plan is posted elsewhere on our webpage). In it they offer to come up with over \$100,000 for clean ups and security. Which sounds pretty good on paper.

Some of the legislators like the idea, because it relieves them of any duty to actually solve the tuber problems. And, of course, those of us that know these tubing operators don't trust them to actually do any of the things they are promising to do. They will forget this plan as soon as the session ends (unless their plan is somehow required by law).

Nonetheless, there is a way that the TRPA could live with their private plan (as an alternative to the WORD having to collect \$3 per person from everyone renting tubes, canoes, or kayaks) as long as the legislature gives us a recreation district (a WORD) with a can ban in place (as well as a ban on glass and styrofoam and a decibel limit for boom boxes).

Our thinking is that, if the same thing happens here that happened in New Braunfels (and we have every reason to believe it will) then the can ban will stop the party and end the litter - so we really won't need to hire an executive director and put him in an office and require him to beat money out of the tubing companies. And, we really won't need a lot of money for clean ups and extra police. So, we won't need to collect the user fees in the first place. In other words, we can let the tubing companies pay for clean ups and security with their private plan.

So, we are suggesting that we can support this private plan, but only if the legislature, as a compromise, gives us a can ban (along with the other aforementioned laws).

We have also rewritten the WORD legislation to simplify it, by including the laws we want and eliminating the need for it to collect user fees. Whether the legislature will consider this as a committee substitute, or whether they will choose to simply ban cans on the San Marcos River through other legislation is up to them. But, here is our proposed simplified WORD.

Tom Goynes, president

Texas Rivers Protection Association

DRAFT

POSSIBLE COMMITTEE SUBSTITUTE FOR SB 234 (Zaffirini)

A BILL TO BE ENTITLED  
AN ACT

relating to the creation and operation of a park and recreation district in counties that share a border on the San Marcos River and to the authority of the district to collect fees and issue bonds; creating a criminal offense and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: SECTION 1. Subtitle B, Title 10, Local Government Code, is amended by adding Chapter324A to read as follows:

CHAPTER 324A. PARK AND RECREATION DISTRICTS IN CERTAIN COUNTIES ON THE SAN MARCOS RIVER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 324A.001. ELIGIBLE COUNTIES AND TERRITORY. (a) Two counties that share a border on the San Marcos River may create a district as provided by this chapter in all or part of the counties to:

- (1) conserve the natural resources in the district; and
- (2) improve the public health, safety, and welfare in the district.

Sec. 324A.002. DEFINITIONS. (a) In this chapter:

- (1) "Board" means the board of directors of a park and recreation district created under this chapter.
- (2) "District" means a park and recreation district created under this chapter.
- (3) "Eligible county" means a county described by Section324A.001.

(b) A reference in this chapter to a county "in which the district is located" does not include a county in which the district was not located on the date the district was created.

SUBCHAPTER B. CREATION OF PARK AND RECREATION DISTRICT

Sec.324A.003. CREATION ELECTIONS REQUIRED. A district may be created under this chapter only by the majority vote of the commissioners court of each eligible county in which the proposed district will be located.

Sec.324A.004. BOARD MEMBERS. The district is governed by a board composed of the county judges of the counties within the district, and the mayors of any incorporated municipalities within the district.

Sec.324A.005. MEETINGS. (a) The board shall set times for and hold regular meetings. On the request of two or more board members, the board may hold a special meeting at other times as necessary.

(b) The board shall hold meetings at a public place in a county in which the district is located.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec.324A.006. DEPOSITORIES AND DISBURSEMENTS. (a) Money and other funds belonging to or under control of the board are public funds.

(b) The board shall select depositories for the money.

(c) A warrant or check for the withdrawal of money must be signed by two persons authorized to sign a warrant or check by resolution entered in the board's minutes.

Sec.324A.007. ADMINISTRATION. (a) The board may call on the county attorney, district attorney, or criminal district attorney of a county in which the district is located for legal services the board requires. The board may contract for and compensate the board's own legal staff.

(b) The board may acquire insurance for the district.

Sec.324A.008. SEAL. The board shall adopt a seal to place on each lease, deed, or other instrument usually executed under seal and on other instruments as the board requires.

Sec.324A.009. CONTRACTS. (a) The board may enter into any contract that the board considers necessary or convenient to carry out the purposes and powers granted by this chapter.

(b) If the contract is for an amount less than or equal to the amount prescribed by Section 262.023, the board may enter into the contract without advertisement. If the contract is for more than that amount, the contract is subject to the bidding provisions applicable to county contracts.

(c) To be effective, a contract must be approved by board resolution.

Sec.324A.010. SUITS. The board may sue and be sued in the board's own name.

Sec.324A.011. DISTRICT RULES AND ORDINANCES; CRIMINAL PENALTY.

(a) It is a Class C misdemeanor to possess a single use beverage container while navigating or recreating on the San Marcos River within the district. A single use beverage container is a container made of plastic or metal that has a pop top seal or has a screw top lid that has a breakable seal.

(b) It is a Class C misdemeanor to possess a glass or styrofoam container while navigating or recreating on the San Marcos River within the district.

(c) It is Class C misdemeanor to operate a radio or boom box at a decibel rating over 65 at a distance of 50 feet, while navigating or recreating on the San Marcos River within the district.

(d) It is a Class C misdemeanor to block or congregate at a private access point to the river that is clearly marked with signage or purple paint while navigating or recreating on the San Marcos River within the district.

(e) The board may adopt reasonable rules and ordinances applicable to:

(1) the administration, enforcement, and collection of district fees and the issuance, suspension, and cancellation of revenue permits;

(2) activities that endanger the health and safety of persons or property on public water in the district, including the possession or consumption of alcohol by minors, subject to the public's paramount right to navigate inland water; and

(3) conservation of the district's natural resources and regulation of activities affecting the district's natural resources, including hunting, fishing, boating, camping, tubing, and swimming.

An offense under this subsection is a Class C misdemeanor punishable by a fine not to exceed \$500.

Sec.324A.011. ENFORCEMENT. (a) A police officer, constable, sheriff, or other law enforcement officer with jurisdiction in a county in which the district is located may arrest a person who violates a district rule or ordinance, including a revenue permit requirement, in the officer's, constable's, or sheriff's county and carry out the prosecution of that person in the proper court.

(b) The county attorney, district attorney, or criminal district attorney of a county in which the district is located, or an attorney retained by the board for this purpose, may bring an action to enjoin a violation of a district rule or ordinance, and if the board authorizes, may seek damages and attorney's fees based on the violation, if the violation involves:

(1)the providing or offering of a rental or service for which collection of a fee is required under Section 324A.092;

(2)the failure of a revenue permit holder to remit a fee imposed under Section 324A.092 if the fee has been due for more than 60days;  
or

(3)the violation by a revenue permit holder of a

district rule or ordinance relating to an activity that endangers the health or safety of a person or property in the district.

Sec.324A.012. BOND. If the board brings an action to enforce this subchapter or enjoin a violation of a district rule or ordinance adopted under this subchapter, the board is not required to post a bond.

Sec.324A.013. HEALTH AND SAFETY SERVICES. The district may provide for fire protection, law enforcement, or emergency medical services in the district.

Sec.324A.014. WATER QUALITY. The district may conduct a program to improve water quality and sanitary conditions in the district.

Sec.324A.015.GRANTS AND GRATUITIES. To promote or accomplish a purpose of this chapter, the board may:

(1)accept grants or gratuities in any form from any source,including the United States government, this state, a state or federal agency, a private or public corporation, or any other person;or

(2)accept donations of money or other property.

Sec.324A.016. DISTRICT AS TRUSTEE. To promote or accomplish a purpose of this chapter, the district may act as

trustee of land, money, or other property.

Sec.324A.017.NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

#### SUBCHAPTER E. FEES; BONDS; FINANCIAL PROVISIONS

Sec.324A.018.NO AD VALOREM TAXES. The district may not impose an ad valorem tax.

#### SUBCHAPTER F. ANNEXATION; INCORPORATION; DISSOLUTION

Sec.324A.019.ANNEXATION. (a) The voters of an area that is contiguous to a district and is in a county election precinct that borders the San Marcos River may file a petition with the board to annex the area to the district.

(b)The petition must contain an accurate description of the area proposed for annexation by reference to county election precinct boundaries, by metes and bounds, by lot and block number if there is a recorded map or plat and survey of the area, or by other sufficient legal description.

(c)The petition must be signed by at least one percent of the registered voters in the area proposed for annexation.

(d)The board shall give notice of a hearing on the petition and hold a hearing in the manner prescribed by Section 324A.003 for a commissioners court hearing.

(e)After holding the hearing, the board may by order annex the area only if the board finds that the annexation promotes the purposes for which the district was created.

(f)If the board annexes territory into the district located in a county other than the counties in which the district was located on the date of the district's creation, the commissioners court of the new county is entitled to appoint a member to the district's board.

Sec.324A.020.EFFECT OF INCORPORATION OR ANNEXATION. The incorporation of a political subdivision or the annexation of any part of a district by a political subdivision does not affect the district's boundaries.

Sec.324A.021. DISANNEXATION. (a) The voters of or county commissioners for any area in a district may file a petition with the board to disannex the area from the district.

(b)The petition must contain an accurate description of the area proposed for disannexation by reference to county election precinct boundaries, by metes and bounds, by lot and block number if there is a recorded map or plat and survey of the area, or by other sufficient legal description.

(c)The petition must be signed by at least one percent of the registered voters in the area proposed for disannexation or by each county commissioner for the area proposed for disannexation.

(d)The board shall give notice of a hearing on the petition and hold a hearing in the manner prescribed by Section324A.003 for a commissioners court hearing.

(e)The board may grant the petition and by order disannex the territory if the board finds that:

(1)the petition meets the requirements of this section.

(2)the disannexation is in the district's best interests.

(f)Except as provided by Section 324A.125(d), if the Parks and Wildlife Department creates a state park that includes territory in the district, the board shall by order disannex the overlapping territory from the district.

(g)The disannexation takes effect on the date stated by the order or, if the order does not state a date, on the date the order is issued.

Sec.A324A.022.DISSOLUTION OF DISTRICT BY COMMISSIONERS COURTS. (a) The commissioners courts of each county in which the district is located by joint order may dissolve the district. The order may be adopted:

(1)on a motion by a commissioners court; or

(2)after the filing of a written petition with each county in which the district is located signed by a number of the registered voters who reside in the district equal to at least 10 percent of the votes received in the district in the most recent gubernatorial general election.

(b)Each commissioners court that receives a petition shall give notice of a hearing on the petition or motion and hold a hearing in the manner prescribed by Section 324A.003.

(c)The commissioners courts shall jointly grant a petition and order the dissolution of the district if the courts find that the petition, if any, meets the requirements of this section and that the dissolution is in the best interests of the counties.

Sec.324A.022.DISSOLUTION OF DISTRICT BY BOARD. (a) The board may by order dissolve the district. The order may be adopted:

(1)on the board's own motion; or

(2)after the filing of a written petition signed by a number of the registered voters who reside in the district equal to at least 10 percent of the votes received in the district in the most recent gubernatorial general election.

(b)The board shall give notice of a hearing on the petition or motion and hold a hearing in the manner prescribed by Section 324A.003 for a commissioners court hearing.

(c)After the hearing, the board shall order the dissolution of the district if the board finds that the petition, if any, meets the requirements of this section and that the dissolution is in the best interests of the counties in which the district is located.

(d)The board shall by order dissolve the district if the Parks and Wildlife Department creates a state park that includes:

(1)all of the district's territory located in one of the counties in which the district is located; or

(2)all of the district's territory.

Sec.324A.023. DISPOSITION OR TRANSFER OF DISTRICT ASSETS AND DEBTS.

(a) If the district is dissolved, the board shall:

(1)transfer the assets of the district to both of the counties in which the district is located; or

(2)administer the assets and debts until all money has been disposed of and all district debts have been paid or settled.

(b)If the district makes the transfer under Subsection (a)(1), the receiving counties assume the debts and obligations of the district at the time of the transfer, and the district is dissolved.

(c)If Subsection (a)(1) does not apply and the board administers the assets and debts of the district under Subsection (a)(2), the district is dissolved when all money has been disposed of and all district debts have been paid or settled.

This Act takes effect immediately if it receives a vote of two-thirds of all the 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, 2015.