

BYLAWS
BOARD OF TRUSTEES OF THE RISK POOL
FOR THE
EL PASO COUNTY HEALTH BENEFITS PROGRAM



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BYLAWS OF THE BOARD OF TRUSTEES OF THE RISK POOL FOR THE EL PASO COUNTY HEALTH BENEFITS PROGRAM

PREAMBLE

The Board of Trustees ("Board") of the Risk Pool for the El Paso County Health Benefits Program ("Risk Pool"), established by the Commissioners Court of El Paso County pursuant to Chapter 172 of the Texas Local Government Code, and in accordance with its duty to supervise the operations of the Risk Pool, hereby adopts the following Bylaws:

ARTICLE I – Purpose

The Board acknowledges these purposes for its creation and supervision of the operation of the Risk Pool:

1.1 Benefits to Employees

To provide uniformity in benefits as described in Local Government Code Chapter 172 Section 172.004 to employees of El Paso County and to provide health plan options that offer at least the minimum essential coverage as outlined by the Affordable Care Act.

1.2 Quality of Benefits

To enable El Paso County to attract and retain competent and able employees by providing them with benefits at least equal to those commonly provided in private industry.

1.3 Promotion of Employment

To foster, promote, and encourage employment by and service to El Paso County as a career profession for persons of high standards of competence and ability.

1.4 Protection of Investment

To recognize and protect El Paso County's investment in each permanent employee by promoting and preserving economic security and good health among those employees.

1.5 Standards of Employer-Employee Relationships

To foster and develop high standards of employer-employee relationships between El Paso County and its employees.

1.6 Benefits to Elected Officials

To recognize the service to El Paso County by extending to the County elected officials the same benefits as are provided for El Paso County employees.

1.7 Retirement

To recognize the long and faithful service and dedication of employees of El Paso County and to encourage them to remain in service until eligible for retirement by providing health benefits to those employees.

1.8 Appeals

To treat with dignity each employee who may have an appeal before the Board due to a complaint on benefits, claims processing, participating providers, etc., and to assure adherence to guidelines.

ARTICLE II - Definitions

2.1 Beneficiary

"Beneficiary" means a person who receives benefits from the El Paso County Health Benefits Fund and is a full time County employee, County elected or appointed official, retiree or eligible dependent of El Paso County.

2.2 Conflict of Interest

"Conflict of Interest" shall conform to the definitions and descriptions of Chapter 171 of the Texas Local Government Code.

2.3 Principles

"Principles" shall be defined as those general areas in which basic laws govern the operation of the Risk Pool.

2.4 Policies

"Policies" shall mean those basic determinations formulated by the Board for the purpose of carrying out the objectives of the Risk Pool.

2.5 Procedures

Procedures shall be defined as the mechanics through which successful performances and adherence to the policies as established by the Board shall be accomplished in addition to such other procedures as are necessary for the routine operation of the Risk Pool.

ARTICLE III – Benefits Contract

3.1 Scope of Coverage

El Paso County, through the Risk Pool, may provide group health and related benefits as described in Local Government Code Chapter 172 Section 172.004 for El Paso County beneficiaries.

3.2 Types of Coverage

The types of coverage that may be provided include group health and accident, group dental, accidental death and dismemberment, hospital, surgical, and medical expense.

3.3 Dependent Coverage

El Paso County, through the Risk Pool, also may include dependents under the coverage provided for County officials, employees, and retirees.

3.4 Trustee and Staff Coverage

The Board may provide coverage for the trustees and the Risk Pool's staff, including persons with whom the pool has contracted to perform staff functions, on approval of the members of the pool.

ARTICLE IV – Risk Pool

4.1 Establishment

El Paso County may establish a risk pool pursuant to Chapter 172 of the Texas Local Government Code or may enter into an Interlocal agreement under The Interlocal Cooperation Act (Chapter 791, Government Code) with other political subdivisions to establish a risk pool to provide health coverage for County officials, employees, retirees, and their dependents.

4.2 Contributions

Contributions paid by El Paso County's officials, employees, and retirees for coverage shall be deposited to the credit of the Risk Pool's fund.

4.3 Purchase of Insurance

The Risk Pool by contract may purchase insurance coverage for persons who are covered by the Risk Pool from an insurance company authorized to do business in this state.

4.4 Representation of Insurance

Neither the Risk Pool nor its agents may represent to persons who apply for coverage or who are covered by the Risk Pool that the coverage being provided is insurance unless the coverage is by contract purchased from an insurance company authorized to do business in this state.

ARTICLE V – Supervision and Administration of the Pool

5.1 Trustees

El Paso County Commissioners Court shall appoint trustees to supervise the operation of the Risk Pool.

5.2 Administration

The Risk Pool may be administered by a staff employed by the Risk Pool, an entity created by El Paso County, a group of political subdivisions participating in the pool or a third party administrator. The Board shall hire and supervise the staff, employees of the entity, or third party administrator.

5.3 Third Party Administrator

Before entering into a contract with an entity to be a third party administrator of the pool, the Board shall follow the County's Purchasing Policy.

5.4 Legal Counsel

An attorney employed by a third party administrator, provider of excess loss coverage, or reinsurer may not be simultaneously employed by the Risk Pool.

5.5 Licensing and Registering

The Risk Pool in contracting for administrative services may only contract for services of an entity licensed or registered under the law. This subsection does not apply to a nonprofit corporation that is acting solely on behalf of the risk pool or other pools or administrative agencies established under The Interlocal Cooperation Act.

ARTICLE VI – Duties of the Board of Trustees

The Board shall be responsible for supervising the operation of the Risk Pool which includes, but is not limited to, the following:

- A.** It is the responsibility of each appointee to County boards to respect and uphold County policies, practices, protocols and procedures.
- B.** It is the responsibility of each appointee to conduct themselves at all times with appropriate civility, respect and decorum, mindful that their conduct before the public reflects upon the integrity of the County and Commissioners Court.
- C.** Members should keep their appointing member of Commissioners Court appraised of the County board's activity and any significant matters before the County board.
- D.** To determine the need for, and establish, all general policies to be implemented in the operation of the Risk Pool. The Board shall concern itself primarily with matters of principle and policy, seeking advice from whichever sources it deems advisable. It will delegate the administrative responsibilities to the contracted third party administrator, who shall administer the group health benefit program as described in the basis for quotation and as defined in the Summary Plan Description.

- E.** To hear and take final action on appeals that come before the Risk Pool Board due to complaints on benefits allowed or denied, claims processing, customer service, participating providers, or any other aspect of the operation of the plan after the complainant has followed the proper procedure outlined in the Summary Plan Description.
- F.** To analyze and approve an annual budget for the Risk Pool and submit same in a timely manner to the Commissioners Court of El Paso County during their scheduled budget process. The submittal will be in accordance with law, and include any and all necessary budget recommendations pertaining to the contribution levels for the employees and their dependents and costs involved in operating the Risk Pool.
- G.** To receive reports from and oversee the County Auditor's investment of the Risk Pool's money as outlined in Article XIV of the Bylaws, in accordance with Chapter 172 of the Texas Local Government Code.
- H.** To employ independent outside auditors to make an annual audit of the Risk Pool's money and investments as outlined in Article XV of the Bylaws, in accordance with Chapter 172 of the Texas Local Government Code. This audit may be conducted in the scope of the annual audit by independent auditors of the County Auditor at the discretion of the Board.
- I.** To promulgate rules and regulations for the operation of the Risk Pool.
- J.** To consider recommendations from the third party administrator, legal counsel, consultant, and staff concerning matters needing action deemed appropriate under the policies and procedures set forth in the Bylaws and in accordance with Chapter 172 of the Texas Local Government Code.
- K.** To review proposed Bylaws, rules and regulations, or amendments thereto as recommended by appropriate parties and to adopt, amend or reject said recommendations.
- L.** To review, approve and monitor the administration by third party administrator of the Risk Pool to assure high quality of the program.

ARTICLE VII – Membership of the Board of Trustees

7.1 Membership

The Board shall consist of five trustees appointed by Commissioners Court of El Paso County. Each member of the Commissioner's Court may nominate a trustee for appointment. Each term of office shall be two years, not including completion of term due to a vacancy. Terms are to be staggered as follows, the County Judge, Pct. 2 and Pct. 4

appointments will run concurrent and be staggered with appointments of trustees from Pct. 1 and Pct. 3. Trustees are not limited in the amount of terms they may serve. Appointees shall be at least the age of eighteen at the time of appointment.

7.2 Attendance

In order to faithfully execute the duties of the Board, trustees shall be regular in attendance to officially called Board meetings. The Board Secretary/Liaison of the Board or designee will notify in writing the appointing member of Commissioners Court and the Chief Administrator for any trustee who fails to attend three (3) or more consecutive regular meetings or five (5) or more regular meetings in a twelve (12) month period. This shall include regular meetings not held due to a lack of quorum. Continued absenteeism will result in a written notification to the Commissioners Court and a copy to the Chief Administrator and the Chairperson.

ARTICLE VIII – Disclosure of Certain Interests of Board of Trustees

8.1 Substantial Interest in a Business Entity

A Trustee has a substantial interest in a business entity if:

- A. the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
- B. funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.
- C. A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.
- D. A board member is considered to have a substantial financial interest under this section if a person related to the board member pursuant to the definition of “family member” herein, has a substantial financial interest.

8.2 General Policy

Each Trustee shall abide by the following policy:

- A. If a Trustee has a substantial interest in a business entity or in real property, the Trustee shall disclose, before a vote or decision on any matter involving the business entity or the real property, by stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

B. This policy should not be construed as preventing the Trustee from answering pertinent questions from other trustees.

The requirements of Article VIII shall be reviewed for information and guidance of all Trustees; each new member shall be advised of these requirements.

ARTICLE IX – Trustee Training

9.1 Mandatory Training

A. Prior to participating in any board activities and being recognized for purposes of quorum, Trustees must complete the following trainings in accordance to the Uniform Rules and Procedures for County Boards Policy:

1. Texas Open Meetings Act
2. Public Information Act
3. County Ethics Code
4. HIPAA Training

B. Trustees are fiduciaries for the Risk Pool and must have at least 16 hours of combined professional instruction with four hours of instruction in each of the following areas:

1. Law governing the establishment and operation of risk pools by political subdivisions;
2. Principles of self-insurance and risk pools, including actuarial and underwriting principles and investment principles;
3. Principles relating to reading and understanding financial statements; and
4. The general fiduciary duties of trustees

9.2 Time Limit

Not later than the 180th day after the date of selection as trustee, or after the effective date of Chapter 172 of the Texas Local Government Code, whichever is the later date, a trustee must complete the professional instruction required in section 9.1 (B).

9.3 Continuing Education

Trustees will be encouraged to attend additional training programs.

ARTICLE X - Officers

10.1 Election

The trustees shall elect from among themselves a Chairperson and Vice-Chairperson. Terms shall be concurrent with trustee's term of office.

10.2 Appointment

The trustees shall appoint the Chief Human Resources Officer (CHRO) or designee of the CHRO, as Board Secretary/Liaison.

10.3 Duties of the Chairperson

The Chairperson shall:

- A. Preside at all Board meetings.
- B. Appoint from among the trustees of the Board to any special committees deemed necessary.
- C. Be responsible for all communication from the Board.

10.4 Duties of the Vice-Chairperson

The Vice-Chairperson shall:

- A. Perform the duties of conducting the meeting in the event the Chairperson is absent from the meeting. The Chairperson shall maintain all previously stated responsibilities upon the conclusion of the meeting.
- B. Perform the duties of the Chairperson in the event of the Chairperson's resignation, death, or other disability, pending selection of a successor at a regular meeting of the Board.

10.5 Duties of the Secretary/Liaison

The Board Secretary/Liaison shall:

- A.** Be responsible for ensuring the carrying out of the duties of Board Secretary/Liaison, as well as serving as a non-partisan, non-voting guiding facilitator during meetings.
- B.** Keep a permanent record of all proceedings of each meeting of the Board. Such records, after approval by the Board, shall be signed by the Chairperson or the trustee presiding and attested to by the Secretary/Liaison, and filed with the County Clerk's Office.
- C.** Keep a roll of the members and call roll when required.
- D.** Perform the duties of the Chairperson in the absence, resignation, death or other disability of both the Chairperson and Vice-Chairperson pending selection of a successor at a regular meeting of the Board if necessary.
- E.** Ensure the preparation of the agendas, post notices of the meetings in accordance with the Texas Open Meetings Act and notify all trustees of the Board of all regular and special meetings of the Board.
- F.** Post signage for meeting locations, announce the business of the day, call for and put to vote all questions moved or necessary in the course of the proceedings, and to announce the results of the vote.
- G.** Conduct correspondence for the group as necessary, appropriate.
- H.** Maintain in good order the County Risk Pool board's rules of order, by-laws, enabling statute or order.
- I.** Be familiar with relevant regulations, policies, practices, protocols and procedures.
- J.** Enter requisitions, make purchases following County procurement procedures, and monitor and maintain any budgeted funds for the County Risk Pool board.
- K.** Provide board specific training and an orientation for all newly appointed County Risk Pool board members.
- L.** Provide guidance and information to the County Risk Pool Board.

10.6 Removal and Resignation

A trustee may be removed from office pursuant to provisions of the Texas Constitution and of the Texas Local Government Code. A trustee may resign at any time by giving written notice to the County Judge and the Board Chairperson or Secretary/Liaison. Resignation shall be effective when accepted by the Commissioners Court and in accordance with the law.

10.7 Vacancies

A vacancy on the Board because of death, resignation, removal or any other cause shall be filled by the Commissioners Court.

ARTICLE XI – Meetings of the Board of Trustees

All regular, annual, special and emergency meetings of the Board shall be held in accordance with the Open Meetings Act. The manner in which these meetings are held is as follows:

11.1 Regular Meetings

- A. Regular meetings of the Board shall be held monthly on the third Wednesday of each month or as otherwise determined by the Board.
- B. The agenda for regular meetings shall include any items appropriate for conducting the affairs of the Risk Pool and shall be in accordance with the Open Meetings Act.

11.2 Special Meetings

Special meetings of the Board may be called by the Chair or Vice Chair of the board and when so called, the activities shall be confined to the purpose or purposes for which it was called. Public notice of the special meeting shall be governed by the Open Meetings Act.

11.3 Emergency Meetings

Emergency meetings of the Board may be called by any member of the board after determining that an emergency or urgent public necessity warrants the meeting. Emergency meetings shall be called only for bona fide emergencies which cannot reasonably be postponed until a special or regular meeting. Activities shall be confined to the purpose for which it was called and public notice shall be governed by the Open Meetings Act.

11.4 Executive Sessions

- A. As provided for in provisions set forth in the Open Meetings Act, the Board may enter executive or closed session after the following requirements have been met:

1. A quorum of the Board has first been convened in open meeting for which notice has been given.
 2. The Chairperson has publicly announced in open meeting that an executive session will be held.
 3. The Chairperson has identified the section or sections of the Open Meetings Act or other applicable statutes that authorize the holding of such executive or closed sessions.
 4. Certified Minutes or a recording shall be made for all executive sessions which shall be kept confidential pursuant to the Open Meetings Act.
- B.** Executive sessions are authorized by the Open Meetings Act to include the following purposes:
1. For a private consultation with the Board's attorney with respect to pending or contemplated litigation, settlement offers, and matters where the attorney's duty to the Board, pursuant to the Code of Professional Responsibility of the State Bar of Texas, clearly conflicts with the provisions of the Open Meetings Act.
 2. To discuss the purchase, exchange, lease or value of real property, negotiated contracts for prospective gifts, or donations to the Risk Pool, when such discussion would have a detrimental effect on the Board's negotiating position with a person, firm or corporation.
 3. In cases involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a trustee or employee of the Board or to hear complaints or charges against a trustee, an employee of the Board, unless such persons request a public hearing.
 4. As a personnel matter relating to the health benefit component of an individual employee's compensation, to discuss the health benefit plan as it relates to plan coverage of an individual beneficiary's medical condition or claim.

11.5 Voting Rights of Trustees

Each trustee shall be entitled to one vote on all matters before the Board. There shall be no voting by proxy.

11.6 Quorum

The presence of the majority of the trustees of the Board (at least 3) shall constitute a quorum for the transaction of business.

11.7 Notice to Trustees

Trustees of the Board shall be given notice of regular and special meetings at least 72 hours prior to the scheduled time of the meeting and at least two hours notice prior to the time of an emergency meeting.

11.8 Rules of Order

Roberts' Rules of Order shall govern the proceedings of the meetings of the Board in all matters not inconsistent with the Bylaws of the Board and the laws of the State of Texas.

ARTICLE XII – Public Statements and Pronouncements

County boards, their officers, and their members shall coordinate in advance through the appropriate designee within the Chief Administrator's Office all contacts with the press and any press releases. County boards, their officers and their members shall refer all inquiries by the press regarding County operations, events or other County business to the appropriate County staff.

ARTICLE XIII – Excess Loss Coverage and Reinsurance

The Risk Pool may reinsure its potential liability or purchase stop-loss coverage for any amount of potential liability that is in excess of projected paid losses. If the Risk Pool either reinsures its potential liability or purchases stop loss, it must do so from an insurance company admitted to do business in this state that holds a certificate of authority from the Texas Department of Insurance.

ARTICLE XIV - Investments

The Board shall receive reports from the County Auditor's Office pertaining to the investment of the HEALTH AND LIFE FUND's investment of funds. Those funds are to be invested in investments authorized by the County's Investment Policy in accordance with the ***Texas Government Code Chapter 2256*** and Texas Trust Code (Subtitle B, Title 9, Property Code), as applicable. Investments will be made on the basis of Preservation of Principle, Liquidity, Diversification, and Yield, in that order. The decision as to what to invest in rests with the County's Investment Officer based on the Preservation of Principle, Liquidity, Diversification, and Yield.

ARTICLE XV - Audits

15.1 Annual Audit

The Board shall have the fiscal accounts and records of the Risk Pool audited annually by an independent auditor. This audit may be conducted in the scope of the annual audit by independent auditors of the County Auditor at the discretion of the Board. The fiscal year of the Risk Pool shall begin on October 1 and end on September 30.

15.2 Selection

The person who performs the audit must be a certified public accountant or public accountant licensed by the Texas State Board of Public Accountancy.

15.3 Scope

The independent audit shall cover the Risk Pool's fiscal year.

15.4 Filing

The Board shall file annually with the Texas Department of Insurance a copy of the audit report.

ARTICLE XVI - Insolvency

16.1 Declaration

The Board shall declare the Risk Pool insolvent if the Board determines that the Risk Pool is unable to pay valid claims within 60 days after the date the claims are verified.

16.2 Disposition

If the Risk Pool is declared insolvent by the Board, the Risk Pool shall cease operation on the day of the declaration, and the Board shall provide for the disposition of the Risk Pool's assets, debts, obligation, losses, and other liabilities.

ARTICLE XVII – Payment of Contributions and Premiums

El Paso County may pay all or part of the contributions for coverage under Chapter 172 of the Texas Local Government Code from local funds, including federal grant or contract pass-through funds that are not dedicated by law to some other purpose.

- A.** El Paso County also may pay all or part of the contributions for coverage for officers, employees, retirees, and dependents.
- B.** On written approval of an officer or employee, El Paso County may deduct from the officer's or employee's compensation an amount necessary to pay that person's and their dependent's contributions. A retiree may authorize in writing the person who pays their retirement benefits to deduct from those benefits an amount sufficient to pay the retiree's and their dependent's contributions.
- C.** State funds, except federal grants or contract funds passed through the state to its political subdivisions, may not be used to purchase coverage or to pay contributions

under Chapter 172 of the Texas Local Government Code.

ARTICLE XVIII – Application of Certain Laws

The Risk Pool is not insurance or an insurer under the Insurance Code and other laws of this state, and the State Board of Insurance does not have jurisdiction over the Risk Pool.

ARTICLE XIX - Subrogation

A payor of employee benefits, whether El Paso County, the Risk Pool or carrier providing reinsurance to one of those entities, shall be subrogated to the employee's right of recovery for personal injuries caused by the tortious conduct of a third party.

ARTICLE XX – Conflicts of Bylaws

If any provision of these Bylaws is now or hereinafter in conflict with any law of the State of Texas relating to the Board of Trustees and the managing of the Health Benefits Program, such law, as long as it is in effect, shall take precedence over these Bylaws.

ARTICLE XXI – Amendments and Alterations

Amendments and alterations to the Bylaws shall require a majority vote of the Board at any regular or special meeting, provided that the proposals for changes have been furnished in writing to each trustee of the Board at least seven days prior to the date set for action thereon. The Board shall review the Bylaws at least every two years.

ARTICLE XXII – Conflicts of Interest

In the conduct of County business, a County board member who has a financial, economic or direct personal interest in a governmental decision before them, upon identifying a conflict of interest or potential conflict of interest, immediately prior to consideration of the matter shall:

- A. Publicly identify the financial, economic or direct personal interest that gives rise to the conflict of interest or potential conflict of interest in sufficient detail to be

- understood by the public, except that disclosure of the exact street address of a residence is not required; and,
- B. Recuse themselves from discussing, voting and officiating on the matter; and,
 - C. May be requested to leave the room until after the discussion, vote, and any other disposition of the matter is concluded; and,
 - D. Notwithstanding the above, may speak on the issue in the same manner as a member of the audience during the time that the general public speaks on the issue.

No County board member shall in any way make, participate in making, nor use their appointment to influence the making of a governmental decision in which they have, or have reason to know they have, a financial, economic or direct personal interest. Governmental decisions include, but may not be limited to, decisions of the County board on which they serve, of county staff, or of Commissioners Court.

ARTICLE XXIII - Adoption

These Bylaws, as written, and/or amended, shall become effective immediately upon their acceptance and adoption, and supersede all previous Bylaws heretofore adopted by the Board of Trustees of El Paso County. Accepted and adopted by the Board of Trustees of the Risk Pool for the El Paso County Health Benefits Program, El Paso County, Texas, on this _____ day of _____, **20**_____.