

CHAPTER 463C

HONEY CREEK PARK DEVELOPMENT

Referred to in §12.30

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463C.1 Title.

This chapter shall be known and may be cited as the “*Honey Creek Premier Destination Park Bond Program*”.

2005 Acts, ch 178, §43, 64

463C.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Authority*” means the Honey creek premier destination park authority created in section 463C.4.
2. “*Board*” means the governing board of the authority.
3. “*Bonds*” means bonds, notes, and other obligations and financing arrangements issued or entered into by the authority pursuant to this chapter.
4. “*Department*” means the department of natural resources.
5. “*Fund*” means the Honey creek premier destination park bond fund created in section 463C.11.
6. “*Gross revenues*” means all income and receipts derived from the operation of the Honey creek premier destination park.
7. “*Net revenues*” means gross revenues less operating expenses.
8. “*Operating expenses*” means salaries, wages, costs of maintenance and operation, and costs of materials, supplies, insurance, and purchases made at wholesale, in connection with the operation of the Honey creek premier destination park, and all other items normally included as operating expenses under requirements of law or recognized accounting practices. “*Operating expenses*” does not include depreciation, costs of capital improvements or extensions, bond principal payments, or bond interest payments.
9. “*Program*” means the Honey creek premier destination park bond program established in section 463C.10.

2005 Acts, ch 178, §44, 64; 2006 Acts, ch 1004, §1, 5

463C.3 Legislative findings.

1. The establishment of the Honey creek premier destination park bond program and Honey creek premier destination park authority is in all respects for the benefit of the people of the state of Iowa, for the improvement of their health and welfare, and for the promotion of the economy, which are public purposes.
2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.
3. The authority will assist in the establishment of the Honey creek premier destination park in the state which will provide important recreational and economic benefits to the state.
4. Current efforts to develop the Honey creek premier destination park in the state have

fallen short and the creation of an authority which has the mission of engaging and assisting in these efforts will increase the likelihood of reaching the desired goal.

5. It is necessary to create the Honey creek premier destination park bond program and authority to encourage the investment of private capital to stimulate the development and construction of the park including lodges, campgrounds, cabins, and golf courses through the use of public financing, and to this extent it is the public policy of this state to support the Honey creek premier destination park bond program in the procurement of necessary moneys for deposit into the Honey creek premier destination park bond fund.

2005 Acts, ch 178, §45, 64

463C.4 Establishment of Honey creek premier destination park authority.

1. The Honey creek premier destination park authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions.

2. The purposes of the authority include all of the following:

a. To implement and administer the Honey creek premier destination park bond program and to establish a stable source of revenue to be used for the purposes designated in this chapter.

b. To issue bonds and enter into funding options, consistent with this chapter, including refunding and refinancing its debt and obligations.

c. To provide for and secure the issuance and repayment of its bonds.

d. To invest funds available under this chapter to provide for a source of revenue in accordance with the program plan.

e. To refund and refinance the authority's debts and obligations, and to manage its funds, obligations, and investments as necessary and if consistent with its purpose.

f. To implement the purposes of this chapter.

3. The authority shall invest its funds and accounts in accordance with this chapter and shall not take action or invest in any manner that would cause the state to become a stockholder in any corporation or that would cause the state to assume or agree to pay the debt or liability of any corporation in violation of the United States Constitution or the Constitution of the State of Iowa.

4. The authority shall not create any obligation of this state or any political subdivision of this state within the meaning of any constitutional or statutory debt limitation.

5. The authority shall not pledge the credit or taxing power of this state or any political subdivision of this state, or make its debts payable out of any moneys except those of the authority specifically pledged for their payment.

2005 Acts, ch 178, §46, 64

Referred to in §463C.2

463C.5 Governing board.

1. The powers of the authority are vested in and shall be exercised by a board consisting of the treasurer of state, the auditor of state, and the director of the department of management. Notwithstanding the provisions of section 12.30, subsection 2, regarding ex officio nonvoting status, the treasurer of state shall act as a voting member of the authority.

2. Two members of the board constitute a quorum.

3. The members shall elect a chairperson, vice chairperson, and secretary, annually, and other officers as the members determine necessary. The treasurer of state shall serve as treasurer of the authority.

4. Meetings of the board shall be held at the call of the chairperson or when a majority of the members so requests.

5. The members of the board shall not receive compensation by reason of their membership on the board.

2005 Acts, ch 178, §47, 64

463C.6 Staff — assistance by state officers, agencies, and departments.

1. The staff of the office of the treasurer of state shall also serve as staff of the authority under the supervision of the treasurer.

2. State officers, agencies, and departments may render services to the authority within their respective functions, as requested by the authority.

2005 Acts, ch 178, §48, 64

463C.7 Limitation of liability.

Members of the board and persons acting on the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter.

2005 Acts, ch 178, §49, 64

463C.8 General powers of authority.

1. The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers, including but not limited to all of the following powers:

a. The power to issue its bonds and to enter into other funding options as provided in this chapter.

b. The power to have perpetual succession as a public instrumentality and agency of the state, until dissolved in accordance with this chapter.

c. The power to sue and be sued in its own name.

d. The power to make and execute agreements, contracts, and other instruments, with any public or private person, in accordance with this chapter.

e. The power to hire and compensate legal counsel, notwithstanding chapter 13.

f. The power to hire investment advisors and other persons as necessary to fulfill its purpose.

g. The power to invest or deposit moneys of or held by the authority in any manner determined by the authority, notwithstanding chapter 12B or 12C.

h. The power to procure insurance, other credit enhancements, and other financing arrangements, and to execute instruments and contracts and to enter into agreements convenient or necessary to facilitate financing arrangements of the authority and to fulfill the purposes of the authority under this chapter, including but not limited to such arrangements, instruments, contracts, and agreements as bond insurance, liquidity facilities, interest rate agreements, and letters of credit.

i. The power to accept appropriations, gifts, grants, loans, or other aid from public or private entities.

j. The power to adopt rules consistent with this chapter and in accordance with chapter 17A, as the board determines necessary.

k. The power to acquire, own, hold, administer, and dispose of property.

l. The power to determine, in connection with the issuance of bonds, and subject to the sales agreement, the terms and other details of financing, and the method of implementation of the program plan.

m. The power to perform any act not inconsistent with federal or state law necessary to carry out the purposes of the authority.

2. The authority is exempt from the requirements of chapter 8A, subchapter III.

2005 Acts, ch 178, §50, 64

463C.9 Powers not restricted — law complete in itself.

This chapter shall not restrict or limit the powers which the authority has under any other law of this state, but is cumulative as to any such powers. A proceeding, notice, or approval is not required for the creation of the authority or the issuance of obligations or an instrument as security, except as provided in this chapter.

2005 Acts, ch 178, §51, 64

463C.10 Honey creek premier destination park bond program.

The authority shall assist in the development and expansion of the Honey creek premier destination park in the state through the establishment of the Honey creek premier destination park bond program. The authority may issue its bonds or notes, or series of bonds or notes, for the purpose of defraying the cost of one or more projects for the development and expansion of the Honey creek premier destination park in the state, including lodges, campgrounds, cabins, and golf courses, and make secured and unsecured loans for the acquisition and construction of such projects on terms the authority determines.

2005 Acts, ch 178, §52, 64

Referred to in §463C.2

463C.11 Honey creek premier destination park bond fund.

1. The Honey creek premier destination park bond fund is established as a separate and distinct fund in the state treasury consisting of Honey creek premier destination park revenues, any moneys appropriated by the general assembly to the fund, and any other moneys available to and obtained or accepted by the authority for placement in the fund. The moneys in the fund shall be used to develop the Honey creek premier destination park in the state by funding the development and construction of facilities in the park including but not limited to lodges, campgrounds, cabins, and golf courses. The treasurer of state is authorized to establish separate and distinct accounts within the Honey creek premier destination park bond fund in connection with the issuance of the authority's bonds in accordance with the trust indenture or resolution authorizing the bonds and the authority is authorized to determine which revenues and accounts shall be pledged as security for the bonds. Amounts deposited in the Honey creek premier destination park bond fund shall be deposited in the separate and distinct accounts as set forth in the trust indenture or resolution authorizing the bonds. The authority is authorized to pledge and use the net revenues from the Honey creek premier destination park for payment of the bonds.

2. Payments of interest, repayments of moneys loaned pursuant to this chapter, and recaptures of awards shall be deposited in the fund.

3. Moneys in the fund may be used by the authority for the purpose of providing grants, loans, forgivable loans, loan guarantees under the Honey creek premier destination park bond program established in this chapter, and otherwise funding the development and construction of facilities in the park including but not limited to lodges, campgrounds, cabins, and golf courses. The moneys in the fund shall be used for the development and construction of facilities in the Honey creek premier destination park.

4. The authority, in consultation with the department, shall determine which projects qualify for assistance from the fund, and which projects shall be funded.

2005 Acts, ch 178, §53, 64; 2006 Acts, ch 1004, §2, 5

Referred to in §463C.2, 463C.12

463C.12 Premier destination park bonds.

1. The authority may issue taxable or tax-exempt bonds, or a combination thereof, for the purpose of funding the Honey creek premier destination park bond fund established in section 463C.11 and for the purpose of refunding any bonds issued under this section. The authority may issue bonds in principal amounts which, in the opinion of the board, are necessary to provide sufficient funds for the Honey creek premier destination park bond fund established in section 463C.11, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the authority incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the board necessary or convenient to administer the fund; provided, however, excluding the issuance of refunding bonds, the board shall issue bonds pursuant to this section which result in the deposit of net bond proceeds of not more than twenty-eight million dollars credited to the Honey creek premier destination park bond fund.

2. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code, chapter 554.

3. The authority may pledge amounts deposited in the Honey creek premier destination

park bond fund established in section 463C.11 as security for the payment of the principal of, premium, if any, and interest on the bonds. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the Honey creek premier destination park bond fund and any bond reserve funds established pursuant to section 463C.13, all of which may be deposited with trustees or depositories in accordance with bond or security documents, and are not an indebtedness of this state, or a charge against the general credit or general fund of the state, and the state shall not be liable for the bonds except from amounts on deposit in the funds. Bonds issued under this section shall contain a statement that the bonds do not constitute an indebtedness of the state.

4. The bonds shall be:

a. In a form, issued in denominations, executed in a manner, payable over terms and with rights of redemption, and subject to such other terms and conditions as prescribed in the trust indenture, resolution, or other instrument authorizing their issuance.

b. Negotiable instruments under the laws of this state and may be sold at prices, at public or private sale, and in a manner as prescribed by the authority. Chapters 73A, 74, 74A, and 75 do not apply to the sale or issuance of the bonds.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this section and as determined by the trust indenture, resolution, or other instrument authorizing their issuance.

5. The bonds are securities in which public officers and bodies of this state, political subdivisions of this state, insurance companies and associations and other persons carrying on an insurance business, banks, trust companies, savings associations, and investment companies, administrators, guardians, executors, trustees, and other fiduciaries, and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

6. Bonds must be authorized by a trust indenture, resolution, or other instrument of the authority that is approved by the authority. However, a trust indenture, resolution, or other instrument authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issuance of bonds.

7. Neither the resolution, trust agreement, or any other instrument by which a pledge is created is required to be recorded or filed under the uniform commercial code, chapter 554, to be valid, binding, or effective.

8. Tax-exempt bonds issued by the authority in connection with the program, which are exempt from taxation for federal tax purposes, are also exempt from taxation by the state of Iowa and the interest on these bonds is exempt from state income taxes and state inheritance and estate taxes.

9. The authority may issue bonds for the purpose of refunding any bonds or notes issued pursuant to this section then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this section. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the board for deposit in the Honey creek premier destination park bond fund established in section 463C.11. All refunding bonds shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this section.

2005 Acts, ch 178, §54, 64; 2006 Acts, ch 1004, §3, 5; 2008 Acts, ch 1119, §10; 2010 Acts, ch 1138, §56; 2012 Acts, ch 1017, §87

[T] Subsection 5 amended

463C.13 Bond reserve funds.

1. The authority may create and establish one or more special funds, to be known as bond reserve funds, and shall pay into each bond reserve fund any moneys appropriated and made available by the authority for the purpose of the bond reserve fund, any proceeds of sale of notes or bonds to the extent provided in the trust indenture, resolution, or other instrument of the treasurer of state authorizing their issuance, and any other moneys which may be available to the authority for the purpose of the bond reserve fund from any other sources. All moneys held in a bond reserve fund, except as otherwise provided in this section, shall be used as required solely for the payment of the principal of bonds secured in whole or in part by the bond reserve fund or of the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payments of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

2. Moneys in a bond reserve fund shall not be withdrawn from the bond reserve fund at any time in an amount that will reduce the amount of the bond reserve fund to less than the bond reserve fund requirement established for the bond reserve fund, as provided in this section, except for the purpose of making, with respect to bonds secured in whole or in part by the bond reserve fund, payment when due of principal, interest, redemption premiums, and the sinking fund payments with respect to the bonds for the payment of which other moneys are not available. Any income or interest earned by, or incremental to, a bond reserve fund due to the investment of moneys in the bond reserve fund may be transferred by the authority to other reserve funds or the Honey creek premier destination park bond fund to the extent the transfer does not reduce the amount of that bond reserve fund below the bond reserve fund requirement for the bond reserve fund.

3. The authority shall not at any time issue bonds, secured in whole or in part by a bond reserve fund, if, upon the issuance of the bonds, the amount in the bond reserve fund will be less than the bond reserve fund requirement for the bond reserve fund, unless the authority at the time of issuance of the bonds deposits in the bond reserve fund from the proceeds of the bonds issued or from other sources an amount which, together with the amount then in the bond reserve fund, will not be less than the bond reserve fund requirement for the bond reserve fund. For the purposes of this section, the term “*bond reserve fund requirement*” means, as of any particular date of computation, an amount of money, as provided in the trust indenture, resolution, or other instrument of the authority authorizing the bonds with respect to which the bond reserve fund is established, equal to not more than the lesser of any of the following:

a. Ten percent of the stated principal amount of bonds secured in whole or in part by the bond reserve fund.

b. The maximum annual debt service on the issue of bonds.

c. One hundred twenty-five percent of the average annual debt service on the issue of bonds.

4. To assure the continued operation and solvency of the authority for the carrying out of its corporate purposes, provision is made in subsection 1 for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure maintenance of the bond reserve funds, the chairperson of the authority shall, on or before January 1 of each calendar year, make and deliver to the governor the chairperson's certificate stating the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor shall submit to both houses printed copies of a budget including the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Any sums appropriated by the general assembly and paid to the authority pursuant to this section shall be deposited by the authority in the applicable bond reserve fund.

2005 Acts, ch 178, §55, 64; 2006 Acts, ch 1004, §4, 5

Referred to in §463C.12

463C.14 Pledges.

It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the treasurer of state shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the treasurer of state whether or not the parties have notice of the lien.

2005 Acts, ch 178, §56, 64

463C.15 Moneys of the authority.

1. Moneys of the authority from whatever source derived, except as otherwise provided in this chapter, shall be paid to the authority and shall be deposited in the Honey creek premier destination park bond fund. The moneys shall be withdrawn on the order of the person authorized by the authority. Deposits shall, if required by the authority, be secured in the manner determined by the authority. The auditor of state and the auditor's legally authorized representatives may periodically examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing, and the authority shall not be required to pay a fee for the examination.

2. The authority may contract with holders of its bonds or notes as to the custody, collection, security, investment, and payment of moneys of the authority, of moneys held in trust or otherwise for the payment of bonds or notes, and to carry out the contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of the moneys may be secured in the same manner as moneys of the authority, and banks and trust companies may give security for the deposits.

3. Subject to the provisions of any contract with bondholders or noteholders and to the approval of the director of the department of administrative services, the authority shall prescribe a system of accounts.

4. The authority shall submit to the governor, the auditor of state, the department of management, and the department of administrative services, within thirty days of its receipt by the authority, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

2005 Acts, ch 178, §57, 64

463C.16 Annual report.

1. The authority shall submit to the governor, the general assembly, and the attorney general, on or before December 31, annually, a report including information regarding all of the following:

- a. Its operations and accomplishments.
- b. Its receipts and expenditures during the previous fiscal year, in accordance with classifications it establishes for its operating and capital accounts.
- c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.
- d. A schedule of its bonds outstanding at the end of the previous fiscal year, and a statement of the amounts redeemed and issued during the previous fiscal year.
- e. A statement of its proposed and projected activities.
- f. Recommendations to the governor and the general assembly, as deemed necessary.
- g. A statement of all projects funded in the previous fiscal year.
- h. Any other information deemed necessary.

2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress during the reporting period in attaining these goals.

2005 Acts, ch 178, §58, 64

463C.17 Exemption from certain laws.

The authority, the department, and their agents and contracts entered into by the authority, the department, and their agents, in carrying out public and essential governmental

functions are exempt from the laws of the state which provide for competitive bids, term length, and hearings in connection with contracts, except as provided in section 12.30. However, the exemption from competitive bid laws in this section shall not be construed to apply to contracts for the development or construction of facilities in the park, including but not limited to lodges, campgrounds, cabins, and golf courses.

2005 Acts, ch 178, §59, 64; 2007 Acts, ch 215, §116; 2011 Acts, ch 25, §58

463C.18 Bankruptcy.

Prior to the date which is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition under chapter nine of the federal bankruptcy code or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization, entity, or other person shall not authorize the authority to be or become a debtor under chapter nine or any successor or corresponding chapter or sections during such periods. The provisions of this section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law, during the period of the contractual obligation.

2005 Acts, ch 178, §60, 64

463C.19 Dissolution of the authority.

The authority shall dissolve no later than two years after the date of final payment of all outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all assets of the authority shall be returned to the state and shall be deposited in the general fund of the state, unless otherwise directed by the general assembly, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments.

2005 Acts, ch 178, §61, 64

463C.20 Liberal interpretation.

This chapter, being deemed necessary for the welfare of the state and its people, shall be liberally construed to effect its purpose.

2005 Acts, ch 178, §62, 64