

1-1 By: Hamric (Senate Sponsor - Duncan) H.B. No. 82
1-2 (In the Senate - Received from the House July 11, 2003;
1-3 July 17, 2003, read first time and referred to Committee on
1-4 Government Organization; July 21, 2003, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 6, Nays
1-6 0; July 21, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 82 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the abolition of the state aircraft pooling board.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. The heading to Subchapter A, Chapter 2205,
1-13 Government Code, is amended to read as follows:
1-14 SUBCHAPTER A. STATE AIRCRAFT POOLING [~~BOARD~~]; GENERAL PROVISIONS
1-15 SECTION 2. Subdivision (1), Section 2205.002, Government
1-16 Code, is amended to read as follows:
1-17 (1) "Department [~~Board~~]" means the Texas Department of
1-18 Transportation [~~State Aircraft Pooling Board~~].
1-19 SECTION 3. Section 2205.032, Government Code, is amended to
1-20 read as follows:
1-21 Sec. 2205.032. CUSTODY, CONTROL, OPERATION, AND
1-22 MAINTENANCE. (a) The department [~~board~~] shall operate a pool for
1-23 the custody, control, operation, and maintenance of all aircraft
1-24 owned or leased by the state.
1-25 (b) The department [~~board~~] may purchase aircraft with funds
1-26 appropriated for that purpose.
1-27 (c) As part of the strategic plan that the department
1-28 [~~board~~] develops and submits under Chapter 2056, the department
1-29 [~~board~~] shall develop a long-range plan for its pool of aircraft.
1-30 The department [~~board~~] shall include appropriate portions of the
1-31 long-range plan in its legislative appropriations request. The
1-32 long-range plan must include estimates of future aircraft
1-33 replacement needs and other fleet management needs, including any
1-34 projected need to increase or decrease the number of aircraft in the
1-35 pool. In developing the long-range plan, the department [~~board~~]
1-36 shall consider at a minimum for each aircraft in the pool:
1-37 (1) how much the aircraft is used and the purposes for
1-38 which it is used;
1-39 (2) the cost of operating the aircraft and the revenue
1-40 generated by the aircraft; and
1-41 (3) the demand for the aircraft or for that type of
1-42 aircraft.
1-43 SECTION 4. Section 2205.034, Government Code, is amended to
1-44 read as follows:
1-45 Sec. 2205.034. FACILITIES. (a) The department [~~board~~] may
1-46 acquire appropriate facilities for the accommodation of all
1-47 aircraft owned or leased by the state. The facilities may be
1-48 purchased or leased as determined by the department [~~board~~] to be
1-49 most economical for the state and as provided by legislative
1-50 appropriations. The facilities may include adequate hangar space,
1-51 an indoor passenger waiting area, a flight-planning area,
1-52 communications facilities, and other related and necessary
1-53 facilities.
1-54 (b) A state agency that operates an aircraft may not use a
1-55 facility in Austin other than a facility operated by the department
1-56 [~~board~~] for the storage, parking, fueling, or maintenance of the
1-57 aircraft, whether or not the aircraft is based in Austin. In a
1-58 situation the department [~~board~~] determines to be an emergency, the
1-59 department [~~board~~] may authorize a state agency to use a facility in
1-60 Austin other than a department [~~board~~] facility for the storage,
1-61 parking, fueling, or maintenance of an aircraft.
1-62 SECTION 5. Section 2205.035, Government Code, is amended to
1-63 read as follows:

2-1 Sec. 2205.035. AIRCRAFT LEASES. (a) The department
2-2 ~~[board]~~ by interagency contract may lease state-owned aircraft to a
2-3 state agency.

2-4 (b) A state agency that is the prior owner or lessee of an
2-5 aircraft has the first option to lease that aircraft from the
2-6 department ~~[board]~~.

2-7 (c) The lease may provide for operation or maintenance by
2-8 the department ~~[board]~~ or the state agency.

2-9 (d) A state agency may not expend appropriated funds for the
2-10 lease of an aircraft unless the department ~~[board]~~ executes the
2-11 lease or approves the lease by department ~~[board]~~ order.

2-12 (e) A state agency may not use money appropriated by the
2-13 legislature to rent or lease aircraft except from the department
2-14 ~~[board]~~ or as provided by Subsection (f). For purposes of this
2-15 subsection and Subsection (f), payments of mileage reimbursements
2-16 provided for by the General Appropriations Act are not rentals or
2-17 leases of aircraft.

2-18 (f) If the department ~~[board]~~ determines that no
2-19 state-owned aircraft is available to meet a transportation need
2-20 that has arisen or that a rental or lease of aircraft would reduce
2-21 the state's transportation costs, the department ~~[board]~~ shall
2-22 authorize a state agency to expend funds for the rental or lease of
2-23 aircraft, which may include a helicopter.

2-24 SECTION 6. Section 2205.036, Government Code, is amended to
2-25 read as follows:

2-26 Sec. 2205.036. PASSENGER TRANSPORTATION. (a) The
2-27 department ~~[board]~~ shall provide aircraft transportation, to the
2-28 extent that its aircraft are available, to:

2-29 (1) state officers and employees who are traveling on
2-30 official business according to the coordinated passenger
2-31 scheduling system and the priority scheduling system developed as
2-32 part of the aircraft operations manual under Section 2205.038;

2-33 (2) persons in the care or custody of state officers or
2-34 employees described by Subdivision (1); and

2-35 (3) persons whose transportation furthers official
2-36 state business.

2-37 (b) The department ~~[board]~~ may not provide aircraft
2-38 transportation to a passenger if the passenger is to be transported
2-39 to or from a place where the passenger:

2-40 (1) will make or has made a speech not related to
2-41 official state business;

2-42 (2) will attend or has attended an event sponsored by a
2-43 political party;

2-44 (3) will perform a service or has performed a service
2-45 for which the passenger is to receive an honorarium, unless the
2-46 passenger reimburses the board for the cost of transportation;

2-47 (4) will attend or has attended an event at which money
2-48 is raised for private or political purposes; or

2-49 (5) will attend or has attended an event at which an
2-50 audience was charged an admission fee to see or hear the passenger.

2-51 (c) The department ~~[board]~~ may not provide aircraft
2-52 transportation to a destination unless:

2-53 (1) the destination is not served by a commercial
2-54 carrier;

2-55 (2) the time required to use a commercial carrier
2-56 interferes with passenger obligations; or

2-57 (3) the number of passengers traveling makes the use
2-58 of state aircraft cost-effective.

2-59 (d) The department shall monitor and ensure compliance with
2-60 the requirements of this section.

2-61 SECTION 7. Section 2205.038, Government Code, is amended to
2-62 read as follows:

2-63 Sec. 2205.038. AIRCRAFT OPERATIONS MANUAL. (a) The
2-64 department ~~[board]~~ shall:

2-65 (1) prepare a manual that establishes minimum
2-66 standards for the operation of aircraft by state agencies; and

2-67 (2) adopt procedures for the distribution of the
2-68 manual to state agencies.

2-69 (b) The manual must include provisions for:

3-1 (1) pilot certification standards, including medical
 3-2 requirements for pilots;
 3-3 (2) recurring training programs for pilots;
 3-4 (3) general operating and flight rules;
 3-5 (4) coordinated passenger scheduling; and
 3-6 (5) other issues the department [~~board~~] determines are
 3-7 necessary to ensure the efficient and safe operation of aircraft by
 3-8 a state agency.

3-9 (c) The department [~~board~~] shall confer with and solicit the
 3-10 written advice of state agencies the department [~~board~~] determines
 3-11 are principal users of aircraft operated by the department [~~board~~]
 3-12 and, to the extent practicable, incorporate that advice in the
 3-13 development of the manual and subsequent changes to the manual.

3-14 (d) The department [~~board~~] shall give an officer normally
 3-15 elected by statewide election priority in the scheduling of
 3-16 aircraft. The department [~~board~~] by rule may require a 12-hour
 3-17 notice by the officer to obtain the priority in scheduling.

3-18 SECTION 8. Section 2205.039, Government Code, is amended to
 3-19 read as follows:

3-20 Sec. 2205.039. TRAVEL LOG. (a) The Legislative Budget
 3-21 Board, in cooperation with the department [~~board~~], shall prescribe:

3-22 (1) a travel log form for gathering information about
 3-23 the use of state-operated aircraft;

3-24 (2) procedures to ensure that individuals who travel
 3-25 as passengers on or operate state-operated aircraft provide in a
 3-26 legible manner the information requested of them by the form; and

3-27 (3) procedures for each state agency that operates an
 3-28 aircraft for sending the form to the department [~~board~~] and the
 3-29 Legislative Budget Board.

3-30 (b) The travel log form must request the following
 3-31 information about a state-operated aircraft each time the aircraft
 3-32 is flown:

3-33 (1) a mission statement, which may appear as a
 3-34 selection to be identified from general categories appearing on the
 3-35 form;

3-36 (2) the name, state agency represented, destination,
 3-37 and signature of each person who is a passenger or crew member of
 3-38 the aircraft;

3-39 (3) the date of each flight;
 3-40 (4) a detailed and specific description of the
 3-41 official business purpose of each flight; and

3-42 (5) other information determined by the Legislative
 3-43 Budget Board and the department [~~board~~] to be necessary to monitor
 3-44 the proper use of the aircraft.

3-45 (c) A state agency other than the department [~~board~~] shall
 3-46 send travel logs to the department [~~board~~] each month in which the
 3-47 agency operates an aircraft.

3-48 (d) The department shall monitor and ensure compliance by
 3-49 state agencies with the requirements of this section.

3-50 (e) The department shall annually report to the Legislative
 3-51 Budget Board on air travel information received under this section.

3-52 SECTION 9. Section 2205.040, Government Code, is amended to
 3-53 read as follows:

3-54 Sec. 2205.040. RATES AND BILLING PROCEDURES. (a) The
 3-55 department [~~board~~] shall adopt rates for interagency aircraft
 3-56 services that are sufficient to recover~~, in the aggregate and to~~
 3-57 ~~the extent possible,~~ all expenses incurred under this chapter
 3-58 [direct costs for the services provided], including current
 3-59 obligations for capital equipment financed under the Texas Public
 3-60 Finance Authority's master lease purchase program and aircraft
 3-61 replacement costs [a state agency's pro rata share of major
 3-62 maintenance, overhauls of equipment and facilities, and pilots'
 3-63 salaries].

3-64 (b) The department shall deposit all revenue received under
 3-65 this chapter to the credit of the state highway fund. Money
 3-66 deposited to the credit of the state highway fund under this chapter
 3-67 is exempt from the application of Section 403.095, Government Code
 3-68 [Legislative Budget Board, in cooperation with the board and the
 3-69 state auditor, shall prescribe a billing procedure for passenger

4-1 ~~travel on state-operated aircraft].~~

4-2 (c) The department may spend money from the state highway
4-3 fund for expenses incurred under this chapter.

4-4 (d) It is the intent of the legislature that receipts and
4-5 expenditures that relate to the state highway fund under this
4-6 chapter be balanced over time so that, to the extent practicable,
4-7 the receipts and expenditures do not result in a net gain or net
4-8 loss to the fund.

4-9 SECTION 10. Subsection (a), Section 2205.041, Government
4-10 Code, is amended to read as follows:

4-11 (a) The Legislative Budget Board, in cooperation with the
4-12 department [board], shall prescribe:

4-13 (1) an annual aircraft use form for gathering
4-14 information about the use of state-operated aircraft, including the
4-15 extent to which and the methods by which the goal provided by
4-16 Section 2205.031(b) is being met; and

4-17 (2) procedures for each state agency that operates an
4-18 aircraft for sending the form to the department [board] and the
4-19 Legislative Budget Board.

4-20 SECTION 11. Section 2205.042, Government Code, is amended
4-21 to read as follows:

4-22 Sec. 2205.042. PILOTS. An individual who is not a pilot
4-23 employed by the department [board] may not operate a state-operated
4-24 aircraft unless the department [board] grants the individual a
4-25 specific exemption from that requirement.

4-26 SECTION 12. Subsection (b), Section 2205.043, Government
4-27 Code, is amended to read as follows:

4-28 (b) The department [board] shall adopt rules, consistent
4-29 with federal regulations and Subtitle A, Title 11 [Article 6139f,
4-30 Revised Statutes], governing the color, size, and location of marks
4-31 of identification required by this section.

4-32 SECTION 13. Section 2205.044, Government Code, is amended
4-33 to read as follows:

4-34 Sec. 2205.044. FUEL AND MAINTENANCE CONTRACTS. The
4-35 department [board] may contract with a state or federal
4-36 governmental agency or a political subdivision to provide aircraft
4-37 fuel or to provide aircraft maintenance services.

4-38 SECTION 14. Subsection (a), Section 2205.045, Government
4-39 Code, is amended to read as follows:

4-40 (a) The department [board] may purchase insurance to
4-41 protect the department [board] from loss caused by damage, loss,
4-42 theft, or destruction of aircraft owned or leased by the state and
4-43 shall purchase liability insurance to protect the officers and
4-44 employees of each state agency from loss arising from the operation
4-45 of state-owned aircraft.

4-46 SECTION 15. Section 2205.046, Government Code, is amended
4-47 to read as follows:

4-48 Sec. 2205.046. AIRCRAFT FOR FLIGHT TRAINING PROGRAMS. (a)
4-49 The department [board] may transfer aircraft to a public technical
4-50 institute or other public postsecondary educational institution
4-51 for use in the institution's flight training program. Except as
4-52 provided by this section, the department [board] has no
4-53 responsibility for continued maintenance of aircraft transferred
4-54 under this section.

4-55 (b) As a condition to the transfer of the aircraft, the
4-56 institution must certify in writing to the department [board] that
4-57 the institution will accept full responsibility for maintenance of
4-58 the aircraft and that it will be properly maintained while in the
4-59 custody and control of the institution. The department [board] is
4-60 entitled to inspect the aircraft without notice for the purpose of
4-61 insuring that the aircraft are properly maintained.

4-62 (c) The department [board] may immediately reassume custody
4-63 and control of a transferred aircraft on a finding by the department
4-64 [board] that:

- 4-65 (1) the aircraft is not being properly maintained;
- 4-66 (2) the aircraft is being used for a purpose other than
4-67 flight training; or
- 4-68 (3) the institution has discontinued its flight
4-69 training program.

SECTION 16. Section 2205.047, Government Code, is amended to read as follows:

Sec. 2205.047. INFORMATION POSTED ON THE INTERNET. The department [board] shall post information related to travel and other services provided by the department under this chapter [board] on an Internet site maintained by or for the department [board]. The site must be generally accessible to state agencies, persons who use the department's [board's] services, and, to the extent appropriate, the general public.

SECTION 17. Sections 2205.003-2205.019, Government Code, are repealed.

SECTION 18. On the effective date of this Act:

(1) the State Aircraft Pooling Board is abolished, and all powers, duties, obligations, rights, contracts, bonds, appropriations, records, and real or personal property, and personnel of the State Aircraft Pooling Board are transferred to the Texas Department of Transportation;

(2) a rule, policy, procedure, or decision of the State Aircraft Pooling Board continues in effect as a rule, policy, procedure, or decision of the Texas Department of Transportation until superseded by an act of the Texas Department of Transportation;

(3) a reference in law to the State Aircraft Pooling Board means the Texas Department of Transportation; and

(4) the number of full-time equivalent positions intended to be allocated to the State Aircraft Pooling Board by H.B. No. 1, Acts of the 78th Legislature, Regular Session, 2003, is reduced by 39 for fiscal years 2004 and 2005, and the number of full-time equivalent positions allocated to the Texas Department of Transportation is increased by 39 for fiscal years 2004 and 2005 for the purpose of administering Chapter 2205, Government Code.

SECTION 19. (a) All money collected by the Texas Department of Transportation under Chapter 2205, Government Code, during the state fiscal biennium beginning September 1, 2003, is appropriated to the Texas Department of Transportation for that biennium for the purpose of administering Chapter 2205, Government Code.

(b) The unexpended balance of the appropriation to the State Aircraft Pooling Board for all or part of the state fiscal biennium ending August 31, 2003, is appropriated to the Texas Department of Transportation for the state fiscal biennium beginning September 1, 2003, for the purpose of administering Chapter 2205, Government Code.

(c) For the purpose of administering Chapter 2205, Government Code, the Texas Department of Transportation is appropriated \$3,741,068 from the state highway fund for fiscal year 2004 and \$3,660,494 from the state highway fund for fiscal year 2005. It is the intent of the legislature that, to the extent possible, the appropriations under this subsection shall be funded from money collected under Chapter 2205, Government Code, and that any expenditures not immediately offset by money collected under Chapter 2205, Government Code, be repaid from money collected under Chapter 2205, Government Code, in the future.

SECTION 20. Before March 1, 2004, the Texas Department of Transportation shall file with the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board a complete and detailed report on the transfer of powers and duties from the State Aircraft Pooling Board to the Texas Department of Transportation.

SECTION 21. This Act takes effect September 1, 2003, 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 effect on that date, this Act takes effect November 1, 2003.

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